Hon. T. Moore: Some rough stuff has been put up on us at times.

Hon. W. J. MANN: That is so, and this Bill ought to overcome that sort of thing. I should like the Honorary Minister to ascertain the reason for deleting the definition of "inspector" and substituting one that would indicate the appointment of another inspector to perambulate the country and harass the farmers. Under the principal Act, "inspector" means an inspector attached to the Department of Agriculture and includes any officer of that department acting as an inspector under the Act. The Bill proposes to delete that definition and substitute a much shorter one to the effect that an inspector means "an inspector appointed under this Act." Does this imply that an inspector is to be appointed whose job will be confined to the supervising of feedstuffs? The inspectors of the Department of Agriculture should be able to police this legislation.

Hon. L. Craig: The amendment might mean one of the inspectors of the department instead of all of them.

Hon. W. J. MANN: Given an assurance that this point will be cleared up, I am prepared to support the Bill. If it is not cleared up, I shall move to have the proposed new definition deleted.

THE HONORARY MINISTER (Hon. E. H. Gray—West—in reply) [6.3]: I am not in a position to supply the information desired by Mr. Mann but will obtain it next week. I should now like to move the adjournment of the debate.

The PRESIDENT: The hon. member has spoken and cannot now move the adjournment of the debate.

Question put and passed.

Bill read a second time.

In Committee.

Hon. J. Nicholson in the Chair; the Honorary Minister in charge of the Bill.

Clause 1—agreed to.

Clause 2—Amendment of Section 3:

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

Clauses 3 to 7—agreed to.

Progress reported.

House adjourned at 6.8 p.m.

Legislative Assembly.

Thursday, 17th October, 1940.

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

QUESTION—PETROLEUM ACT AMENDMENT ACT.

As to Number of Applications, etc.

Hon. C. G. LATHAM asked the Minister for Mines: 1, On what date was the Petroleum Act Amendment Act assented to? 2, Have any applications been received under the new Act? 3, If so, how many, and for what areas? 4, How many applications have been approved, and for what areas? 5, What amount was paid for each area granted—if any? 6, Will he lay on the Table a plan showing the position of the approved areas?

The MINISTER FOR MINES replied: 1, 8th October, 1940. 2, Yes. 3, Three: 134,000 square miles, 11,000 square miles, and 4,612 square miles respectively. 4, One for 134,000 square miles. 5, The amount required by the Petroleum Act—£100. 6, Yes (plan laid on the Table).

QUESTION—STATE MUNITIONS BOARD.

As to Allowances to Members.

Hon. W. D. JOHNSON asked the Premier: Are the members of the State Munitions Board made an allowance for their services, or is their compensation limited to expenses?

The PREMIER replied: The Board of Area Management under the Ministry of Munitions is appointed by the Commonwealth Government. It is understood that members' services are honorary, but they may, if claimed, receive out of pocket expenses when travelling.

QUESTION—ROAD CLOSURE.

As to Sub Judice Case.

Hon. W. D. JOHNSON asked the Premier: Should legislation, such as the Road Closure Bill now before the House, be introduced covering the matter of a road closure when such is sub judice, especially when the Government is associated in a proposed legal process on the said closure?

The PREMIER replied: Yes, but the Government is not associated in any proposed legal process.

QUESTION—LANDS DEPARTMENT.

Office of Chief Draftsman.

Mr. NORTH asked the Minister for Lands: 1, Is the position of Chief Draftsman in the Lands Department still vacant? 2, Has the Public Service Commissioner made a recommendation to the Government? 3, Does the situation require that a statement be laid before Parliament in accordance with the Public Service Act?

The MINISTER FOR LANDS replied: 1, Yes. 2, Yes. 3, No.

QUESTIONS (2)—PLANT DISEASES ACT.

As to Refund of Excess Tax.

Mr. SAMPSON asked the Minister for Agriculture: 1, Has a refund of excess tax levied in connection with the Plant Diseases Act been made by the Department of Agriculture for portion of the period for which the lesser fee of 1s. per orchard registration had already been paid? 2, If not, will this be done or a credit passed for the amount illegally collected and the persons to whom such credit has been passed duly advised?

The MINISTER FOR AGRICULTURE replied: 1, All orchardists who have paid the orchard registration fees due for this year have been refunded the amount in excess of 1s. paid for the period January to to June, 1940. Those who have not paid the fees for the current year have been written to advising them of the balance due. 2, Answered by No. 1.

As to Reduction of Tax to Orchardists, etc.

Mr. SAMPSON asked the Minister for Agriculture: 1, Has he received communications from the Fruitgrowers and Market Gardeners' Association and Viticulturists' Union, and a number of unattached vignerons and orchardists, requesting that the Act imposing increased taxation under the Plant Diseases Act should be amended, and the tax thereby reduced from 2s. 6d. to 1s. per acre? 2, Further, will he give consideration to the deletion of any taxation charge on plantations of trees and vines until such trees and vines are capable of bearing fruit?

The MINISTER FOR AGRICULTURE replied: 1, Yes. The matter of license fees has been referred to the Fruit Fly Advisory Committee for its consideration. The Western Australian Fruitgrowers' Association has also been communicated with. No replies have been received from these bodies. 2, Registration and license fees on young orchards and vineyards are receiving consideration.

QUESTION—RURAL FINANCIAL PROBLEMS.

As to Statement by Hon. L. Craig, M.L.C.

Hon. C. G. LATHAM (without notice) asked the Minister for Lands: 1, Has he noticed in this morning's issue of the "West Australian" a statement by the Hon. L. Craig in the Legislative Council during the debate on the motion for an inquiry into rural financial problems, as follows:—"Yesterday a bank manager told me he had a pile of applications for money and he would not look at them till he knew the position of the Bill." 2, Has the Minister been informed by any financial institution or representative thereof that its attitude is as stated by Mr. Craig? 3, If so, does he not consider this amounts to a method of coercing members of Parliament and influencing them from carrying out their responsibilities to the people of the State? 4, If he has not been so informed will he make inquiries as to the truth of Mr. Craig's

statement. 5, If, in either case, he ascertains such attitude is being adopted, will he consider taking suitable action?

The MINISTER FOR LANDS replied: It is difficult to answer so many involved questions on the spur of the moment, although I have a copy of them before me. The answer to the first question is "Yes. I have noticed such a statement." I have been informed by one financial institution that its attitude towards the requests for further finance will be more fully considered when the fate of the Bill affecting rural relief is known. On the other hand, I do not consider that the attitude of financial institutions in awaiting the decision of Parliament in respect to such a matter amounts to coercion. I will make inquiries into the truth of Mr. Craig's statement. It seems to me, however, that institutions with the very big sums due to them, and the many calls and requests that will inevitably be made this year for seasonal and other advances, are awaiting the passage of the Bill to ascertain whether in their view it is likely to influence such seasonal advances. I think that is how they will look at the matter.

BILL—INCOME TAX ASSESSMENT ACT AMENDMENT.

Council's Amendments.

Schedule of five amendments made by the Council now considered.

In Committee.

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

No. 1. Clause 19.—Insert in definition of "employee," after the word "wages," in line 26, on page 9, the words "under a contract of service":

The PREMIER: Since the Bill was dealt with in this Chamber, copies of the measure the Commonwealth Government proposes to bring down to amend its own law have been received. It is proposed in that legislation to introduce the principle of taxation at the source, similar to what we have in this State. There are certain differences between the Commonwealth measure and the Bill before us. It is, therefore, desired to make certain alterations in our measure to obtain uniformity, and also because it is felt that the proposed amendments will simplify the administration of the subsequent Act. There is nothing in the present Act relating to the use of joint tax stamps. As it is assumed that the Commonwealth Bill will become law in the near future, we desire to take this opportunity to provide the necessary machinery for the use of joint tax stamps, which will have a Commonwealth print. Provision is now being made for the insertion of a new section, Section 205A., in the Act. That is similar to the provision now being embodied in the Commonwealth legislation. The Crown Law Department thinks it is necessary to provide for such a thing in our Bill, and it will be covered by Subsections 1 and 2 of the proposed new section. It was also found necessary to make provision for arriving at an agreement between the Commonwealth and State Governments to determine what proportion of the sale of Commonwealth stamps in the State would be regarded as sales for State purposes and what proportion for Commonwealth purposes. That also applies to the proportion of unpresented stamps as at the 30th June.

Hon. C. G. Latham: Do you not intend to have separate stamps?

The PREMIER: No. We propose to endeavour to secure an arrangement for one stamp to be used for both Commonwealth and State purposes, and the relative proportions to be allocated to the Commonwealth and the State will be determined by means of an agreement that is to be arrived at. The Bill provides the necessary power to enable the Government to enter into such an arrangement. If any such satisfactory arrangement can be arrived at, one stamp will be found to be convenient for both the taxpayers and the officials who have to make the deductions. Obviously, the necessity arises for the Government to be given power to negotiate such an agreement. The Commonwealth Bill will contain a provision enabling the Commonwealth to enter into such an agreement with those States that have made provision for the collection of taxation at the source. Hence the inclusion of a similar provision in our Bill. A number of stamps sold prior to the 30th June of each year will be used jointly for the payment of Commonwealth

and State taxation and the Bill makes provision for the determination of the relative proportions to be credited to the Commonwealth and the State respectively. These are the major points in the new provisions.

The CHAIRMAN: I would remind the Premier that the Committee is dealing with the first amendment proposed by the Legislative Council.

The PREMIER: That is so, but I ask you, Mr. Chairman, to allow me to give an outline of the object of the amendments and then members can discuss them seriatim. An opportunity has also been taken to make one or two minor alterations that were found necessary, particularly with regard to the definitions of "employee" and "salaries and wages." The amendments now before the Committee were introduced by the Government in the Legislative Council. The Commonwealth Bill was not available when our measure was dealt with in this Chamber and therefore the amendments could not be incorporated in the Bill when it was before members. The Commonwealth Bill came to hand when the measure was before the Council and the amendments set out on the notice paper were found to be necessary to bring our legislation into conformity with the Commonwealth Bill. They do not affect the general principle to any extent. I ask the Committee to agree to the Council's amendments. I move—

That the amendment be agreed to.

Hon. C. G. LATHAM: Did I understand the Premier to say that the new definition of "employee" has been taken from the Federal Bill?

The Premier: Yes.

Hon. C. G. LATHAM: I do not like such amendments to be placed before this Committee so soon after the Bill has been drafted, unless, of course, there was no earlier opportunity.

The Premier: That is the position; the Commonwealth Bill was received after our measure had been considered in this House.

Hon. C. G. LATHAM: I agree that, in the circumstances, the State and Commonwealth legislation should be along the same lines as much as possible.

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

No. 2. Clause 19: Add to definition of "Employee" further paragraphs (d) and (e), as follows:—

(d) a member of Parliament;

(e) any person who receives or is entitled to receive any salary or wages as defined in paragraph (b) of the definition of "Salary or wages" hereunder.

The PREMIER: This amendment will mean that a member of Parliament will be deemed to be an employee so that his taxation may be deducted at the source. I move—

That the amendment be agreed to.

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

No. 3. Clause 19: Add to the clause a paragraph, as follows:—

(c) by deleting from the definition of "Salary or wages" the word "such" in line four of the said definition and inserting in lieu thereof the words "an employee under contract of service."

The PREMIER: I move—

That the amendment be agreed to.

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

No. 4. Clause 21: Proposed new subsection (3): Delete from the proposed new subsection (3) the words "whereby it is provided that," in line 17, on page 10, and insert in lieu thereof the words "as provided for in section two hundred and five A of this Act and pursuant thereto."

The PREMIER: This amendment is consequential and I move —

That the amendment be agreed to.

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

No. 5. New Clause: Insert a new clause after clause 21, to stand as clause 22, as follows:—

Use of Commonwealth Tax Stamps by the State.

22. (1) Where the Parliament of the Commonwealth has enacted legislation which is similar to the provisions of this Division and tax stamps are prepared and placed on sale by the Commonwealth Authority for the purposes of that legislation, the Governor of the State may ar-

range with the Governor General of the Commonwealth, or the State may arrange with the Commonwealth, as the case may require, for the use by the State for the purposes of this Division of tax stamps, prepared and placed on sale by the Commonwealth Authority as aforesaid.

(2) The agreement relating to any such arrangement may make provision for any other matters necessary or convenient to be provided for carrying out the arrangement.

(3) The agreement relating to any such arrangement shall contain a provision for ascertaining what proportion of the proceeds of the sales of Commonwealth tax stamps in the State shall be deemed to be attributable to sales for the purposes of this Division and what proportion shall be deemed to be attributable to sales for the purposes of the Commonwealth legislation, and the proceeds shall, in the first instance, be divided between the State and the Commonwealth accordingly.

(4) As soon as possible after the close of each financial year, the State and the Commonwealth shall, in accordance with such method as is specified in the arrangement, determine what proportion of the proceeds of sales of Commonwealth tax stamps in the State during that financial year was attributable to sales for the purposes of this Division and what proportion was attributable to sales for the purposes of the Commonwealth legislation and the State or the Commonwealth, as the case requires, shall make such payment to the other party as is necessary in order that each shall receive the proportion to which, under the terms of the arrangement, it is entitled.

The PREMIER: This amendment gives the State the right to enter into an agreement with the Commonwealth to determine the proportion of stamps to be allocated to the Commonwealth and the State respectively. With regard to the sales of stamps, the allocation of which cannot be determined immediately, we can safely leave the matter for subsequent adjustment under the arrangements that will be made. I do not know how else that difficulty could be overcome. There are distinct advantages in having one stamp only and I can see no other way, apart from having separate stamps for both Federal and State taxation. I think that arrangement would be inconvenient and it is reasonable to assume that a satisfactory apportionment of sales of stamps at a particular time can be arrived at. I move —

That the amendment be agreed to.

Hon. C. G. LATHAM: I think the Premier ought to amend the Council's amendment because it refers to the insertion of a new clause to stand as Clause 22. That would mean it would appear in the Act after Section 21, but it has no relation to that section. It should really stand as new Section 205A.

The PREMIER: I agree with the contention of the Leader of the Opposition, but I think these adjustments can be made by the Parliamentary draftsmen when they are incorporating this provision in the Bill.

Hon. C. G. Latham: We should make sure.

The PREMIER: I agree that the adjustment should be made, but it is a question as to how.

Hon. C. G. Latham: You could move the clause to stand as Section 205A.

The PREMIER: If necessary I am prepared to move that the amendment be agreed to subject to an addendum at the commencement stating that the clause shall stand as Section 205A in the Assessment Act.

Hon. N. Keenan: This must be Clause 22 in the Bill because it follows Clause 21.

The PREMIER: That is so. But power was given by a Bill introduced a couple of years ago by the member for Brown Hill-Ivanhoe for the draftsmen when incorporating provisions of a Bill in an existing law, to make necessary adjustments of this kind. So I really do not think it is necessary for me to move in the direction suggested by the Leader of the Opposition.

Hon. C. G. LATHAM: Very well. However, I am not too clear as to what will happen as a result of this clause unless the Federal Government imposes the same rate of tax as the State Government. Suppose we strike a rate of 1s 6d. in the pound on £12 a week and over, and the Commonwealth Government imposes a rate of 1s. We are not proposing to share the other 6d. with the Commonwealth, so why not have separate stamps?

The Premier: I do not think the Commonwealth will adopt our taxation system *holus-bolus*.

Hon. C. G. LATHAM: We know exactly what rate of tax we are imposing, but I want to know what will happen if the Commonwealth imposes a tax amounting to 75 per cent. of our tax. This proposal will mean a terrific amount of book-keeping and adjustment. If our tax is 1s. 6d. in the pound and the Commonwealth tax is 1s., we shall need a 2s. 6d. stamp and the assessor will need a ledger alongside him to make sure we obtain our 1s. 6d. and the Commonwealth obtains its 1s. Taxation officials must appreciate the need for curtailing expenditure. The removal of the Taxation Department offices to Barrack street led to an increase in the staff but I want to make sure that there will not be further additions simply because additional taxation is to be imposed. I am afraid that if we do not give the lead in curtailing expenditure the Treasurer will find increased charges made against him by the Commonwealth Taxation Department for additional work performed. I do not know how this will work out.

The Premier: I do not think anybody knows.

Hon. C. G. LATHAM: I hope that if this is the most expensive way of conducting the business the charge will not be against us. The taxation officials should devise the cheapest method and we must guard against passing legislation that will increase costs. We might well give heed to the statement of the Public Service Commissioner in giving evidence before a committee appointed by both Houses of Parliament at the instigation of the Minister for Lands to the effect that the more legislation passed, the more work the Civil Service has to do and the greater is the expenditure incurred. I agree that the taxes should be amalgamated, but we must keep down expenditure. I am prepared to accept the word of the Premier that he has seen the Federal taxation proposals. I have not.

The Premier: This clause merely gives power to make an agreement. There will be a good deal of negotiation.

Mr. RODOREDA: There is something to be said in favour of having two stamps. This would mean a little more inconvenience for the employee, because he would need two stamp books, but the terms during which deductions will be made on behalf of the State and the Commonwealth will vary. A man might have deductions made for six months for the State and nine months for the Commonwealth, and a point would be reached when all the deductions would be for State or Commonwealth. The employee would need two exemption certificates, one showing that so much had been deducted for six months and the other showing that so much had been deducted for nine months. Seemingly there will be plenty to confuse the taxpayer, but there is likely to be a great deal more confusion in the department in allocating the amounts collected. All that confusion in the department could be obviated by having two stamps. The Premier should consider this point before agreeing with the Commonwealth to have a single stamp for both taxes.

Hon. N. KEENAN: What advantage will accrue to the State by this arrangement? Apparently the State will gain nothing more than the cost of the stamp, whatever that might be.

The Premier: It is more a matter of convenience.

Hon. N. KEENAN: Obviously it will be more convenient for the taxpayer to handle one stamp instead of two, but is that a matter of great moment? Is it of sufficient moment to warrant the possibility of some agreement of a very difficult nature being made? To keep proper track of the money received for the State and for the Commonwealth will be exceedingly difficult.

The Premier: The stamps will all be in one book belonging to the taxpayer.

Hon. N. KEENAN: That is so, but there are many taxpayers, and to check all their payments in the event of a dispute would entail much arduous work. I doubt whether the proposed arrangement is warranted and regret that the Premier has agreed to it.

The Premier: We are only asking authority to make an agreement.

Hon. N. KEENAN: If the Premier does not intend to proceed with it, he should not ask for authority.

The Premier: We do intend to proceed.

Hon. N. KEENAN: Then we have to consider the proposal on its merits, and I cannot see anything to recommend it.

The PREMIER: A taxpayer with an income of £400 would have to pay, say, £20 a year, probably £12 10s. to the State and

£7 10s. to the Commonwealth. He would receive an assessment for each. After £20 had been deducted, he would report the fact to the Taxation Department. His assessments might amount to £21, and after paying another £1, he could get exemption certificates for both Commonwealth and State. I presume that is what will occur. We do not know whether the Commonwealth Parliament will approve of the proposal to tax at the source, and we do not know what the Commonwealth rate will be, but the Commonwealth and the State assume that they will be able to make satisfactory arrangements for a joint stamp. If that proves to be so, well and good; if not, we shall have two stamps. If a mutually satisfactory convenient and economical arrangement can be agreed upon, it will be made. If there is a possibility of difficulties arising, we will not make an agreement. I cannot say whether we will make an agreement because the matter might prove to be complex. Extra expense entailed by collecting the tax at the source would be divided between the State and the Commonwealth and thus both Governments would effect some saving. The amendment is purely permissive. If we can make a satisfactory arrangement, the authority to make it will exist.

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

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

BILL—SUPPLY (No. 2), £1,200,000.

Returned from the Council without amendment.

BILL—BUSH FIRES ACT AMENDMENT.

Second Reading.

Debate resumed from the 15th October.

MR. THORN (Toodyay) [5.12]: The Bush Fires Act of 1937 permitted the introduction of many desirable reforms for taking precautions against the lighting of fires and during burning-off operations. This amending Bill provides for further precautions, which I believe are very necessary. Most of us have had experience of carelessness displayed by travellers in lighting fires and by property-owners in burning off their land. On the recommendation of the Conservator of Forests, the Minister for Lands agreed to the appointment of an advisory committee, which should prove of great value in advising the department on matters of burning-off. A special officer has been appointed to co-operate with the local authorities and act as adviser to the local bodies on behalf of the committee. The result of this co-operation has been that, in 34 road districts and seven municipalities, 37 bush fire brigades have been formed with 412 fire control officers and 212 captains and lieutenants. These have been registered for the control of bush fires, and I think we can expect excellent results. The Forests Department has an important obligation to the State in the matter of preventing the outbreak of bush fires and has done excellent work in that direction. Throughout the timber country and in the hills districts, precautions against the bush fire menace have been taken by way of burning breaks and forming voluntary bush fire brigades. Another assurance we have from the Minister is that the Forests Department has carefully reviewed the proposed amendments and agreed to them. One provision is for the burning-off of clover pastures. I feel sure that members representing districts affected will have something to say on that provision. They have a greater knowledge of burning-off of pastures than I possess. However, I do notice one very helpful clause in that connection, the clause providing for the appointment of local men in the pasture areas to advise on the granting of permits for the burning-off of clover pastures. Another amendment proposes to alter the period of notice to be given by landholders to the authorities regarding burning-off. Under the Act it is necessary, before burning-off, to give four days' notice. The Bill proposes a period of two days. I feel that two days would be quite sufficient notice to be given at any time for burning-off. To my thinking, four days' notice is too long altogether, because landholders desirous of burning off have many things to take into consideration, such as weather conditions.

Mr. Cross: Landholders like a good hot day for burning off.

Mr. THORN: The necessity of giving four days' notice frequently deprives land-

holders of opportunities for burning off successfully. The amendment will benefit the landholders. I also agree with the clause dealing with Sunday burning. It prohibits the lighting of fires and burning-off on a Sunday. It will be highly useful, because not infrequently a man who leaves his holding on Sunday returns to find that he has been half burnt out, or even wholly burnt out. Again, many landholders are not in the district on Sundays to assist to keep a fire under control. Therefore it is highly dangerous to start burning-off operations on a Sunday, when the necessary precautions cannot be taken and the required assistance is not available in the district. A landholder is entitled to leave his farm at the week-end if he so desires. Another provision is the responsibility of the landholder to notify adjoining landholders irrespective of separation of his property by road or rail, and also irrespective of the distance over which his property may extend. He must notify the adjoining landholders. Under the Bill travellers or campers who light fires must clear a radius of ten feet around a fire. The Minister has a further amendment in regard to that matter; it does not yet appear on the notice paper. I regard it as highly necessary, in that it will oblige users of motor vehicles with gas burners, when cleaning the plant or refuelling it, to clear to a radius of 20 feet in order to ensure that there will be no fires caused by sparks due to those operations.

The Bill prohibits the use of wax matches and of other types of matches equally dangerous. The member for Katanning (Mr. Watts) has an amendment on the notice paper to make the definition a little clearer. With that amendment the hon. member will deal later. Generally speaking I feel myself in a position to support the second reading. Most of the amending clauses have received much thought and careful consideration. All the provisions are in the direction of taking further precautionary measures for the control of fires and burnings-off. I feel confident that many members affected by the amendments will contribute to this debate. I observe that several of them have placed additional amendments on the notice paper. Those members will no doubt deal with the position as it affects their districts. I have much pleasure in suporting the second reading.

MR. SAMPSON (Swan) [5.24]: Undoubtedly this State has made great progress in respect of prevention of bush fires. The present Bill will prove extremely helpful. Dangers of fire have grown because of the development of the dairying industry and the use of top-dressing. Bush fires and fires of pasture lands now are far more dangerous than once was the case. A feature that meets with general approval is that the introduction of this legislation will not involve ratepayers in any additional taxation. That of course is how it should be. A problem that did arise soon after the parent Act was passed was the matter of insurance of workers employed by local authorities. It is gratifying to note that the associated insurance offices do cover such workers as regards any injury which may arise from fire-fighting. But there is another phase. A private person, or a person not working for the local authority, may easily be a person requested to give a hand in case of fire. Provision should be made whereby in the event of injury arising in such circumstances, the man will be covered by worker's compensation insurance. Fire-fighting is exceedingly hazardous; and for the sake of those who are prepared to lend a hand on request at a time when a bush fire may threaten a district, I hope my suggestion will receive favourable consideration. Another point, and one to which I see no reference in the Bill, is that following a fire full inquiry should be made and an inquest held. I remember an amusing fire with which I had something to do. I was coming in to Perth from the hills when I noticed a motor car alight on the side of the road. Fortunately I was able to obtain the use of a spade, with which I put the fire out. Although the owner was advised, he has not up to the present expressed any gratification because of my industry in the matter.

The Minister for Lands: It might be your indiscretion.

Mr. SAMPSON: From his point of view it may have been. However, it is a fact that the well-used or old car has a far greater tendency to meet with disaster from fire than a new car has, except in certain circumstances. It appears that if there is a good deal owing on a new car, there is always a possibility of that also falling a victim. Insured cars were, if they are not now, notoriously combustible.

Mr. Patrick: That is why the rates are so high.

Mr. SAMPSON: I am afraid that is so. It is most pleasing to learn that in the Bill the use of wax matches is to be prohibited. That is a most desirable and useful feature of the Bill. Disposing of the body of a dead animal is referred to. This has always been a difficulty, and it is remarkable how much wood or other material is required in order to dispose of a carcase effectually. I am glad the measure provides that a log fire shall not be lighted for the purpose of disposing of the carcase of any animal unless care has been taken to clear a certain space. The amendment provides a most useful addition to the law. I should like to suggest to the Minister for Lands that while certain districts are mentioned as districts in which it is illegal to light or use a fire in the open or at certain periods—those districts including Geraldton, Northampton, Upper Chapman, Greenough, and Gascoyne-Minilya—it would be advisable to take power to add other districts to the list. Even in some parts of Osborne Park there might easily be danger. Tomato plants and other vegetable growths are highly vigorous, and it would be well if the Minister were granted additional powers. Perhaps in the Committee stage the Minister might agree to the necessary amendment. I submit the Bill should also contain a clause to give protection against careless users of motor vehicles with gas producers.

The Minister for Lands: I shall move to add a new clause dealing with that point.

Mr. SAMPSON: I am pleased to have that assurance. The matter of regulations dealing with camp fires is important. I venture to suggest it might be well to provide that there should be added to motor drivers' licenses a brief extract of the more important regulations that will be made under this measure. Such extract might be read, although I admit I am not sanguine on the point. Unfortunately, people who do not live in the country have little realisation of the enormous damage that may be caused by a fire which gets out of hand. South Australia has at least one fire-fighting association. I believe it has two or three, but I am sure it has one. This holds a conference each year, when problems which confront settlers and others are fully discussed. The association to which I refer is the Northern Fire Fighting Association. It has done wonderful work; perhaps later on something on the same lines may be done here. In the meantime, I must admit that the Road Board Association of Western Australia is doing everything possible to co-operate with the Minister to provide protective measures. In South Australia, too, a handbook is issued giving a resume of the Act. I am aware that a similar handbook has been issued in this State, and am hopeful that when the Bill passes a revised handbook will be made available to those who are concerned.

I desire to pay tribute to the work done by the officers of the Forests Department. Their work has been of inestimable value. They have a thorough and practical knowledge of the difficulties and dangers of bush fires, and it is but fitting that appreciation should be expressed of the excellent work they have done in the past. No doubt it will be continued in the future. I would refer particularly to two officers, Mr. Giblett and Mr. Lewis, who certainly are fire-fighting enthusiasts. Having heard each of them give addresses on fire-fighting, I am convinced they are thoroughly acquainted with the subject. They gave expression to practical views. They have also been of great assistance to people sufficiently interested to seek their advice. The road boards throughout the State have benefited considerably by the advice and assistance of Messrs. Giblett and Lewis. People must be educated to the importance of doing what is necessary to minimise damage caused by bush fires. The Bill now before us will do very much to assist, and I have no doubt it will have a speedy and successful passage.

MR. J. H. SMITH (Nelson) [5.35]: I congratulate the Minister upon the help that he has obtained from the Forests Department officer, Mr. Giblett, who has done excellent work in the matter of fire-fighting. When one travels throughout the State, one becomes aware that local authorities are now bush-fire conscious. Nearly every local authority has formed volunteer bush-fire clubs. A matter that concerns not only myself but also other people is that of dates. I hope that the Minister, when fixing dates for the opening and closing of bush-fire seasons, will take advantage of the knowledge that is possessed by people directly affected by this legislation. In

some areas it is inadvisable to burn after the 1st March; it is really too late. Burning should commence in some districts about the middle of February. In districts where early rains occur a good running fire cannot be obtained after the middle of February. In my electorate—with the exception perhaps of the Upper Blackwood district—the season should not close until the 1st or even the 12th December. It is too late to burn there in March. At one period, before our land was so closely settled and the danger consequently not so great, people who ran stock dropped matches about the middle of January, which of course is the best time to burn. Those days, however, are past; a strict penalty, quite rightly, is provided in order to prevent such a procedure.

I am pleased that the Minister has made provision for clover seed gatherers. The Minister for Works will remember that at one time these people were handicapped because of the provisions of the Act. I introduced a deputation to him and the Minister, while not in favour of breaking the law, said that the seed had to be gathered and the only thing the gatherers could then do was to burn. He advised them to do so and said that if the police did take action against them, nothing serious would result. The Minister in charge of the Bill is wise in that he has made provision for these clover seed gatherers; they can burn under certain conditions. This amendment of the parent Act is needed; but, as I said, I hope the Minister will consult the local authorities with regard to fixing the dates for the burning periods. Local residents know best when the season should be opened and closed. I support the Bill.

MR. ABBOTT (North Perth) [5.39]: I desire to touch on one or two points with regard to this Bill Although penalties are provided for lighting a fire, there is a still greater penalty at common law. At common law, anyone who lights a fire, except for household purposes, absolutely ensures that no damage will be done by that fire. Notwithstanding that he may take every precaution and comply with every Act and is not guilty of negligence in any way, if he lights a fire he is responsible for all the damage done by it. That may spell ruin for a man. It is a responsibility that the Government itself will not accept; because negligence on the part of the Railway Department must be proved before the Government becomes liable to pay damages. I suggest that because of the consequences of the law, people in many districts never light fires—they just occur. That in my opinion is one of the weaknesses of the Bill. I know of one member of the legal profession who transferred his farm to a limited liability company for a few days while he proceeded with the burning. Having completed it and thus successfully released himself from any responsibility, the company went out of existence and he became repossessed of his farm. Thus members will realise that a person who is aware of his responsibility takes care to avoid it. The Bill will encourage people to drop matches, because of the great responsibility thrown upon them by the law.

The Premier: Did that member of the legal profession pay stamp duty on the transfer of the property?

Mr. ABBOTT: I hope so, although I am not aware of it. Another point I desire to refer to is the question of notice. A great deal of difficulty may occur because a farmer does not know who is the occupier of land adjoining his property. There may be no one actually on the land and therefore he would not know to whom to give notice. A way out of this difficulty would be to make provision that notice should be given to the person who, according to the rate book, is the occupier; otherwise the farmer might be compelled to employ a solicitor in Perth to make a search to ascertain who is the owner or occupier.

Question put and passed.

Bill read a second time.

In Committee.

Mr. Marshall in the Chair; the Minister for Lands in charge of the Bill.

Clauses 1, 2—agreed to.

Clause 3—Amendment of Section 5:

Mr. SEWARD: I move—

That in lines 7 and 8 of Subclause (a) the words "or by a railway" be struck out.

The railways use fire grates and take the usual precautions; consequently in my opinion they should be deemed to be adjoining owners, otherwise there may be a disposition on the part of the railways to neglect to

take proper precautions. Members are aware of the difficulty of proving that a fire was caused by a railway, and frequently adjoining owners are financial losers.

The MINISTER FOR LANDS: It would be unwise to delete the words. The railways take all reasonable precautions not only by burning firebreaks, but they go to considerable trouble to clear refuse from embankments. It is in the interests, not only of the railways, but the people on either side of the railways, that the words should remain.

Amendment put and negatived.

Mr. WATTS: I move an amendment —

That in lines 7 to 11 the words "or other natural feature of such a character as to be insufficient to prevent the passage of a bush fire from one piece of land to another piece of land" be struck out.

There are no means of ascertaining what particular feature is likely to be considered as sufficient or insufficient. If the words are left in the position will be rendered difficult, especially if the matter reaches a court of law to determine whether a natural feature was or was not sufficient.

The MINISTER FOR LANDS: I am not particularly wedded to the retention of the words proposed to be struck out. Their insertion, I think, is due to the zeal of the officers controlling bush fires. I have no specific notes with regard to the words, but I can read into them the difficulty suggested.

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

Clause 4. New Section: Advisory committee:

Mr. WATTS: I move an amendment—

That in line 2 of Subsection 2 of proposed new Section 6A, after the word "who" the words "subject to the provisions of the next following subsection" be inserted.

It will be necessary to make some reference to the next amendment I propose to move. The new subsection as it is, reads, "The committee shall consist of not more than nine members who shall be appointed by the Governor. . . ." . I do not propose to alter the latter part of the new subsection. My idea is that in view of the great interest local authorities have in dealing with the Bush Fires Act and the co-operation which they have afforded more particularly in recent years, the need exists for making the appointment I intend to suggest. Were the measure to apply only during the next one or two years, it might be unnecessary to do what I propose, but the position will be otherwise. My idea is to move later that such number of members of the committee as is nearest to one-third of the number of the members for the time being shall be appointed on the recommendation of the executive of the Road Board Association. Therefore I suggest that some such proposal as I have moved should be embodied in the second subsection of the proposed new section.

The MINISTER FOR LANDS: I think we can properly assume that when additions are made to the committee further representatives of road districts will find a place on it. I have no particular objection to the amendment because I am aware of the co-operation that has come from the road boards.

Amendment put and passed.

Mr. WATTS: I move an amendment—

That the following new subsection to stand as Subsection (5) of the proposed new section be added: "Such number of members of the committee as is nearest to one-third of the number of members for the time being shall be appointed by the Governor on the recommendation of the Executive Council of the Road Board Association of Western Australia, Incorporated."

I do not know what the intention of the Minister is with regard to the number to be appointed and therefore I cannot insert any fixed number of members to be nominated by the Road Board Association. I suggest that the number to be recommended should be the nearest to one-third.

Amendment put and passed.

Mr. WATTS: I move an amendment—

That in line 1 of Subsection 6 of proposed new Section 6A, after the word "may" the words "on the recommendation of the committee" be inserted.

The proposed subsection applies to the payment of members of the committee, travelling and other expenses. It will then read, "The Minister may on the recommendation of the committee, pay to any member of the committee who is not a servant in the employment of the Crown, any travelling or other expenses actually incurred."

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

Clause 5—Amendment of Section 7:

Mr. SEWARD: I move an amendment—

That in line 4 the words "thirtieth day of April" be struck out and "thirty-first day of May" inserted in lieu.

There is really not any reason to begin burning off until the end of May. The indiscriminate lighting of fires is dangerous and it is safer to begin the general burning on the date I suggest.

The MINISTER FOR LANDS: It might be dangerous to alter the clause in the way proposed. Some districts may take an entirely different point of view from that expressed by the member for Pingelly, and many people may prefer to shorten the period rather than extend it. As I have not been able to give the matter the attention it deserves, I am not at present prepared to accept the amendment.

The MINISTER FOR RAILWAYS: In my district the season is just beginning to get damp about the end of May, and the settlers would find difficulty in keeping a fire going at that time.

Hon. C. G. Latham: This deals only with the question of notice being given of intention to burn off.

The MINISTER FOR RAILWAYS: Everything depends upon the duration of the notice, and the effect it will have on those concerned.

Hon. C. G. LATHAM: This deals only with the question of giving two days' notice. If people are going to burn off between November and April, they must give two days' notice. The clause does not affect the time when fires may be started.

Mr. SEWARD: My amendment will make no difference to the opening of the burning season, but will merely alter the time when it is necessary to give notice of intention to burn off. Nothing more than the giving of notice is involved.

Mr. WATTS: I should like to be clear on this matter. The amendment would extend the time by one month during which a person who wished to set fire to the bush had to give notice to the local authorities and his neighbours, and otherwise comply with the law. As the clause now reads a man could set fire to the country after the 30th April, look after it himself, and give notice to no one. I understand the amendment would not prevent the making of fires during May, and asks for nothing more than that the period of notice required to be given shall be extended to the end of May. In certain parts of the State that would be desirable, but in other parts the contrary might be the case. There are occasions when fires will run well during May. Perhaps the Minister will reconsider his opposition to the amendment.

Mr. WILLMOTT: I am rather doubtful about the effect the amendment will have upon the South-West. In my electorate most of the settlers are burning off in May, and might be seriously affected by the proposed alteration.

Hon. C. G. LATHAM: The local authorities have to fix the date when fires may be lighted. All this clause deals with is the giving of two days' notice of intention to burn off. It states that after the end of April it will be unnecessary to give such notice, and the proposal is to extend that period to the end of May. In some parts of the agricultural areas it is dangerous to allow people to light fires without sufficient notice being given to the neighbours.

The MINISTER FOR LANDS: On closer examination of the amendment I have come to the conclusion that it will impose less hardship than does the Act itself. In order to suit the dry districts I am prepared to withdraw my opposition to the proposal.

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

Clause 6—agreed to.

Clause 7—Amendment of Section 10:

Mr. SEWARD: I move an amendment—

That a new paragraph be inserted to stand as paragraph (a) as follows:—(a) by deleting the words "thirtieth day of April" in line 3 of the section and inserting in lieu the words "thirty-first day of May."

The amendment is necessary so that the Bill may conform to what we have already done.

Amendment put and passed.

Mr. SEWARD: I move an amendment—

That paragraph (a) be struck out.

The effect of that amendment will be to adhere to the giving of four days' notice, instead of two days as provided in the Bill. The latter period is all too short, whereas four days' notice is quite a reasonable

period. As a rule a farmer informs his neighbours that on the first day when the wind is favourable he intends to light his fires, and he requires four days in which to make up his mind on that point.

Mr. THORN: I do not agree with the remarks of the member for Pingelly. A farmer may not know what his arrangements will be four days ahead any better than he would know them two days ahead. In my view the notice of two days is sufficient. A person would have a better idea of the weather conditions two days ahead than he would have the longer period ahead. I support the retention of the paragraph.

Amendment put and negatived.

Mr. ABBOTT: I move an amendment—

That a new paragraph be added after paragraph (b) as follows:—"Any such notice may be served by posting a copy thereof by registered post addressed to the owner or occupier at his address shown in the ratebook of the road board or municipality.

My desire is to amend Subsection 1 (b) of the Act, which provides that the notice required to be given under paragraph (a) shall contain full particulars of the locality of the bush proposed to be burned. My amendment would enable any person who proposed to burn off to ascertain easily the names of the people to whom notices should be sent. That should also overcome any difficulty that might be created if vacant lands had to be taken into consideration.

Sitting suspended from 6.15 to 7.30 p.m.

Mr. ABBOTT: Section 10 of the Act provides that no person shall within certain periods light a fire, whether in a protected area or not, until he has complied with certain conditions. My amendment provides an easy method of overcoming the difficulty. It provides that the notice may be served by posting the notice, by registered post, to the address of the occupier or owner at his address stated in the rate book. The Act requires delivery of the notice to the owner or occupier personally, and I do not know how that can be done in connection with vacant land.

The MINISTER FOR LANDS: One can imagine a set of circumstances where neighbouring owners or occupiers would not receive their mails oftener than once weekly.

Mr. Patrick: Weekly is the regular thing.

The MINISTER FOR LANDS: Some may get mails not oftener than fortnightly. The purpose of the mover of the amendment would be defeated if we made it incumbent to send the notice by registered letter. What happens to-day in the more scattered districts, or in districts where areas are large, is that an early opportunity is taken by neighbours not merely to conform to the law but to perform a neighbourly act. When doing his ordinary work on, say, fences, he sees that his neighbour is advised that if circumstances permit he will serve on him the necessary two day's or four day's notice, as the case may be, within a week. If the amendment is to be carried, we shall have to increase the period of notice to about four weeks.

Mr. WATTS: While I agree with the Minister, I realise what the member for North Perth is driving at; that is, when the property is vacant. I think the Minister might have given consideration to an amendment that where a property is vacant, a notice may be posted up, or something of that kind.

Amendment put and negatived.

Mr. SEWARD: I move an amendment—

That in lines 18 and 19, of paragraph (c), after the word "Sunday" the words "and after 12 o'clock noon on such day" be struck out.

Anyone who has had much to do with fires knows well that it is absolutely necessary a fire should be practically out by 4 p.m., and that it is also necessary to start burning at 7 a.m. One must start before noon to burn a break, so as to get the main fire going by mid-day. Twelve o'clock is too late to start burning a break, if the paddock is of any size. I appeal to the Minister not to insist on the retention of the words. I would also like the Minister to arrange, if he can, for burning on Sundays to be dealt with by regulation. There is not a farmer in Western Australia who has a burn waiting when the weather is likely to break in a few days, but will let the paddock go up on Sunday whether the Act permits it or not. If rain falls on a paddock within four or five weeks of the burning season, that is the end of prospects of burning that paddock. It might be well to allow each district to permit, or else to prohibit, burning on Sundays.

The MINISTER FOR LANDS: This particular provision represents one of many requests from representatives of road districts. The feeling is that when weather conditions are such as to allow fires, it is dangerous to get too early a start, which may make a fire too difficult to control. A special request was made that fires should not be permitted to be lit after 12 noon on the days referred to.

Mr. PATRICK: I think the proposed time for starting fires is ridiculous. In my district the wind is invariably from the east until noon, after which it swings to a sea breeze. When the wind is from that direction, no one would dream of lighting a fire, so the provision would be valueless.

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

Ayes	23
Noes	11
Majority for	12

AYES.

Mr. Berry	Mr. Patrick
Mrs. Cardell-Oliver	Mr. Rodoreda
Mr. Coverley	Mr. Seward
Mr. Fox	Mr. F. C. L. Smith
Mr. W. Hegney	Mr. Thorn
Mr. Holman	Mr. Triat
Mr. Latham	Mr. Warner
Mr. Mann	Mr. Watts
Mr. McDonald	Mr. Willmott
Mr. McLarty	Mr. Withers
Mr. North	Mr. Sampson
Mr. Nulsen	*(Teller.)*

NOES

Mr. Abbott	Mr. Needham
Mr. J. Hegney	Mr. Panton
Mr. Johnson	Mr. Willcock
Mr. Keenan	Mr. Wise
Mr. Lambert	Mr. Cross
Mr. Millington	*(Teller.)*

Amendment thus passed.

Mr. ABBOTT: I move an amendment—

That a new paragraph, to stand as paragraph (c) be inserted as follows:—"Subsection (3) of Section 10 of the principal Act is hereby deleted and the following subsection inserted in lieu thereof:—'Any person shall be relieved from liability for any actionable damage sustained by any other person in consequence of any burning operations carried out without negligence and in compliance with all the conditions prescribed in Subsection (1) of this section.'"

A man may take every precaution and comply with all the requirements of the Act, yet, unless the fire is lit for household purposes, he is absolutely responsible for any damage that is done. That is an old common law principle. However, where the law sets out compulsorily that farmers must light fires under specified conditions and take the precautions set out, they should not be liable for resultant damage.

The CHAIRMAN: Paragraph (d) as it appears in the clause seeks to add a further provision to Subsection (3) of the principal Act. In effect, the Committee has already agreed to Subsection (3) as there has been no opposition to it. The application of the amendment would be to repeal a subsection to which the Committee has already agreed. The proposed amendment is therefore a direct negative to a vote of the Committee already taken and, in the circumstances, I cannot accept it.

Clause, as previously amended, put and passed.

Clause 8—Amendment of Section 11:

Mr. SEWARD: I move an amendment—

That in lines 3 and 4 of paragraph (a) of proposed new Subsection (1), the words "thirtieth day of April" be struck out and the words "thirty-first day of May" inserted in lieu.

The amendment is similar to one the Committee has already agreed to.

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

Clause 9—Repeal of Section 12 and new section:

Mr. WATTS: I move an amendment—

That in lines 3 to 5 of Subsection (1) of proposed new Section 12, the words "with self-igniting heads and of other matches which have wax-coated or grease-coated cotton stems" be struck out and the words "other than safety matches" inserted in lieu.

I approach the amendment with a certain amount of diffidence because I know the Minister has considered the difficulties associated with this matter, particularly with wooden matches with stems ready to light against any substance against which they may be rubbed. With all respect to those who have advised the Minister on this clause, I contend that matches of that kind are not self-igniting. It has been found necessary to prohibit the sale and use of wax matches in some districts; but matches with wooden stems are quite different. If the amendment is carried, we shall have ruled out all matches other than those generally recognised as the safety type and commonly in use.

The MINISTER FOR LANDS: Considerable attention was given to this provision

by the legal authorities of the Government, in an endeavour to cover the point we were dealing with. I am not sure that the amendment will achieve the object the mover desires to attain. Any match readily ignited upon any surface might purport to be a safety match, but still it might be very unsafe. Even a match that can be readily ignited only on a prepared surface might constitute a danger. When the first consultation was held with regard to this Bill, the Conservator of Forests produced several specimens of matches of different types and sold under all sorts of different names. Some of these matches seemed to be prepared in order to evade the definition of wax matches.

Amendment put and negatived.

Clause put and passed.

Clause 10—Amendment of Section 14:

Mr. SEWARD: I move an amendment—

That in lines 2 and 3 of proposed Subsection (1) the words "thirtieth day of April" be struck out and the words "thirty-first day of May" inserted in lieu.

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

Clause 11—New section:

Mr. SAMPSON: I move an amendment—

That in line 7 of Subsection (1) of proposed new Section 14A the words "or other proclaimed" be inserted after the word "Minilya."

I also wish to move an amendment to the effect that the words "or other growths" be added after the words "tomato plants." In Geraldton, as in other places in the North, other growths are cultivated—for example, beans and potatoes.

Hon. C. G. Latham: The definition might include stubble.

The MINISTER FOR LANDS: Such an amendment would be too wide. The provision in the new section was made for a specific purpose. I have no objection to the amendment moved.

Mr. SAMPSON: Then I will not press the second point.

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

Clause 12—Amendment of Section 17:

Mr. SEWARD: I move an amendment—

That in line 1 of proposed Subsection (6) after the words "At any time" the following words be inserted:—"in the event of mutually satisfactory arrangements for the making of fire-breaks between the owner or occupier of any land and the Conservator of Forests not being made,"

In passing, I desire to pay a tribute to the work done by the officers under the control of the Conservator of Forests. Unfortunately, I know of districts where farmers are antagonistic to the Forests Department: in my opinion, the farmers are to blame, but I would like to see this antagonism removed. Fires are lit in the forest areas right into December and are often a danger to ripe crops which are in close proximity. My amendment will provide an opportunity for satisfactory arrangements to be made before the Conservator gives notice for the ploughing or clearing of land. Last year I attended a meeting in my district called to protest against burning operations by the Forests Department, but the whole trouble was due to a misunderstanding. The farmers did not know when the Conservator intended to burn, or what parts of the land were to be burnt.

Amendment put and passed.

Mr. SEWARD: I move an amendment—

That in line 8 of proposed Subsection (6), the words "or clear" be struck out.

It is reasonable that a man should be required to make breaks and take the necessary precautions laid down earlier in Clause 10, but to force him to clear the land would be harsh. It is unnecessary for him to do that provided he removes the brushwood and observes the other precautions required.

The MINISTER FOR LANDS: The hon. member will impose severe disabilities on his fellow farmers if he succeeds in having these words struck out. Many forest areas in this State are in very rough country and adjoin broken land, and particularly is that so in the district of the member for Nelson. To plough adequately and make the necessary firebreaks in some of these areas by ploughing is not possible, and the Bill makes provision for a man to be required to plough or clear firebreaks within his boundaries and at the requisite distance from the State forest area. I think the hon. member will agree that the Conservator and his men, in their efforts to conserve the State forests, have endeavoured not merely to co-operate with the

farmers in preventing fires but also to follow a reasonable interpretation of their powers under the Act. It can be understood that in some instances it is not practicable to insist on the ploughing of firebreaks. In those circumstances provision is made that the area should be cleared, the brushwood drawn back and an effective firebreak thus created.

Amendment put and negatived.

Mr. SEWARD: I move an amendment—

That in line 10 of proposed Subsection (6a), all the words after "manner" be struck out and the words "prescribed in paragraph (c) of Subsection (1) of Section 10 of this Act" inserted in lieu.

Amendment put and passed.

Mr. WATTS: I move an amendment—

That in lines 8 to 12 of proposed Subsection (9) the words "shall be ascertained and fixed by the Minister and a certificate signed by the Minister shall be conclusive evidence of such amount, and the Minister may recover such amount" be struck out.

This new subsection provides power for the Minister to recover from a local authority or the owner or occupier of land costs and expenses incurred under Subsections (7) and (8). If the amendment is carried I propose to move for the insertion of other words enabling the Minister to regain such costs and expenses in the ordinary way. I cannot understand the need for this specific provision. If the subsection is agreed to as it stands, the Minister will, in effect, say to the court, "All you have to do is to rubber-stamp my Bill." The Minister certifies an amount and that is to be taken as conclusive evidence that it is owing. I am sure that if the Minister desires to recover something from a local authority or the owner or occupier of land, he will have no objection to an officer giving information to the magistrate in the ordinary way.

The MINISTER FOR LANDS: The amendment would render court action necessary in order to recover costs and expenses. If the subsection is retained as printed, a reasonable assessment of the costs or damage can be made and the account can be submitted and paid. If it is not paid, court proceedings will follow.

Mr. WATTS: One only goes to court when a debtor declines to pay. Under the subsection, the Minister could go to court with a certificate signed by himself so that he would be both plaintiff and certifier, and the magistrate must accept the certificate as conclusive evidence. There would be no chance of the defendant's saying that the amount was excessive and he would be deprived of the opportunities open to defendants in courts of law. Such claims could be settled and paid without this provision.

Amendment put and negatived.

Clause, as previously amended, put and passed.

Clauses 13 to 17—agreed to.

New clause—Precautions to be taken with respect to motor vehicles equipped with producer gas apparatus:

The MINISTER FOR LANDS: Two speakers have suggested a provision such as is embodied in the proposed new clause, an instance of great minds thinking alike. I received a note from the Conservator of Forests to-day as follows:—

A great many people in country districts are seriously worried by the fire risk which may result from the greatly increased use of producer gas units on tractors, trucks and motor cars. I would recommend that further clauses on the following lines be added to the amending Bush Fires Act now before Parliament:—

1. It shall be unlawful to use or drive on any public road any tractor, truck or car equipped with producer gas apparatus, the generator of which is not completely enclosed to prevent the escape of sparks or live coals.

2. No person shall at any time between the first day of October and the next ensuing first day of April in any yearly period clean the fire box of any producer gas apparatus fitted to a tractor, truck or car which contains live coals or hot ashes unless a space of ground around the said vehicle having a radius of at least 20 feet has been previously cleared of all stubble, scrub and other inflammable material. Having cleaned such fire box, all coal or ash removed therefrom shall immediately be covered with earth or completely saturated with water.

Following the receipt of that recommendation, I consulted the Parliamentary Draftsman and he has framed a new clause. I move—

That the following be inserted to stand as Clause 8:—A section is inserted in the principal Act after Section ten as follows:—

10A. (1) It shall be unlawful to use or drive on any road any motor vehicle equipped with producer gas apparatus unless such motor

vehicle is so constructed or equipped as to prevent the escape of sparks, live coals, ashes or cinders.

(2) No person shall at any time between the first day of October and the next ensuing first day of April in any yearly period clean the fire box of any producer gas apparatus fitted to any motor vehicle which contains live coals or hot ashes or any other matter from which sparks or fire are or is likely to be emitted unless a space of ground around the said vehicle having a radius of at least twenty feet has been previously cleared of all stubble, scrub, and other inflammable material. All live coals or hot ash or any other matter removed as aforesaid shall immediately be covered with earth or completely saturated with water.

(3) For the purposes of this section the words "motor vehicle" and "road" shall have the meaning attributed to the words aforesaid in the Traffic Act, 1919-1935.

Mr. SEWARD: I move—

That the new clause be amended by striking out the words "first day of April" and inserting in lieu the words "thirty-first day of May."

This will make the new clause consistent with amendments already agreed to.

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

Title—agreed to.

Bill reported with amendments.

BILL—ROAD CLOSURE.

Second Reading.

Debate resumed from the 15th October.

MR. THORN (Toodyay) [8.20]: This is the usual Bill that is brought down each year to deal with certain road closures. Plan No. 1 refers to an area adjoining a portion of land owned by the Roman Catholic Church at South Fremantle. The Church desires to close one right-of-way or lane and vest the land in the Crown, and make provision for another lane. This is really an exchange of land. The proposal has been agreed to by the Fremantle Municipal Council and the Town Planning Board, after due consideration. I have no objection to that portion of the Bill. The second plan is likely to cause a little discussion. I personally inspected the area this morning, and submit that the owner of these blocks is certainly entitled to some compensation. He has a frontage to Surrey street. To all intents and purposes, that is not now a thoroughfare, because a new street has been made there, known as Dodd street, and, as explained by the Minister, the road has been truncated, and, a piece of land having been leased to H. L. Brisbane-Wunderlich Limited, this leaves a right-of-way only 12ft. wide and deprives the owner of the opportunity to re-subdivide his blocks.

The Minister for Lands: That is only the proposal.

Mr. THORN: That is how I view the position. In one instance the owner could subdivide the land and obtain a frontage to Dodd street, but with respect to two other blocks, the frontage is spoilt.

The Minister for Lands: Not the frontage.

Mr. THORN: I am speaking about the proposed subdivision. I think that, as a result of a little consideration and tolerance, the owner might have been able to come to terms with the local authority and overcome the difficulty. Another point is that as a writ has been issued and a case is pending, I do not think the Chamber has any right to legalise this road closure.

Hon. W. D. Johnson: It is not debatable.

Mr. THORN: A big principle is involved. This particular proposal should be rejected because litigation is proceeding. A plan has, however, been brought to the House and we are asked to approve of this closure when the case has yet to be heard, the Government being a third party. In fairness to the owner, the litigation should be allowed to proceed without this Assembly being invited to approve of the closure. Plan No. 3 deals with an area in Geraldton. The matter has received due consideration and I have no objection to the plan. Another plan relates to the closure of a dead-end at Northam. Still another closure deals with a narrow lane-way.

Mr. Withers: In Kensington-street.

Mr. THORN: It is a closure sought by the Perth City Council, in Kensington-street, East Perth. Plan No. 6 deals with a number of streets where the Mines Department has granted tailings leases at Boulder. I understand the land belongs to the Crown, and I see no objection to the request. With the exception of the Bassendean matter, I have pleasure in supporting the second reading.

HON. W. D. JOHNSON (Guildford-Midland) [8.25]: My only objection to the Bill is in connection with the proposal that affects Bassendean. I have been associated for a long time with that portion of my constituency. It is contended that the road board, with the concurrence of the Minister, did something irregular. In my view, this road closure is the subject of misunderstandings and misdirections. It affects the Bassendean Road Board, a body that has helped me and one whose counsel I have appreciated for a long period. Our relationship in respect to local governing matters has been an extremely happy one, but on this occasion I feel that a wrong has been done, and have expressed that view. The matter concerns also a very old friend of mine in Mr. Charles Wicks, of Bassendean. I have always valued his friendship. He was chairman of the road board at a time when it was known as the West Guildford Road Board, has considerable influence in local governing matters, and is an exceptionally good citizen. I have to appreciate that whilst I value the goodwill of the road board and the friendship of one of the leading citizens of the district, I am also concerned about the welfare of H. L. Brisbane-Wunderlich, Limited. Members will, therefore, understand the extent to which I am involved. The company in question is a particularly enterprising one. I would sooner encourage it than discourage it. It has done remarkably good work for Western Australia in the development of the industries it is conducting. This matter also concerns the Lands Department, whose Minister I hold in very high regard. Members will, therefore, see exactly where I stand in this matter. I believe the whole trouble is due to misunderstandings and misdirections. The details may be disregarded for the moment. Unfortunately the incident happened at a time when I was absent from the State. I feel confident that had I been here, because of my close association with the administration of local governing matters in Bassendean, my friendship with Mr. Wicks, and the fact that I meet him regularly, I would have been able to prevent the happening that has caused the trouble and is the subject of portion of this Bill. However, that took place. Immediately upon my return I wrote to the Minister for Lands as follows:—

I have been requested by Mr. Charles Wicks, of Bassendean, to inquire into the interference to the frontage of his building blocks situated at the corner of Surrey and Dodd streets, Bassendean.

I find that during my absence oversea the Lands Department approved of representations made to alter the alignment of Dodd-street in such a way that from Mr. Wicks's point of view it actually meant a road closure, as the main road frontage of the land has been reduced to a footpath in connection with Surrey-street.

I have personally inspected the site, and I am convinced that to leave the matter as approved would be distinctly unfair, as it very seriously reduces the value of Mr. Wicks's land.

I would be pleased if you would get the papers and give me an early opportunity of discussing the matter with you. I will telephone to arrange a time.

I did see the Minister for Lands, and he went into the matter with his usual thoroughness; but he evidently experienced difficulties. The details of those difficulties he did not disclose to me, but he did try to arrange an adjustment, and we discussed the possibilities of arriving at some understanding upon it. After having seen the Minister, I made representations to Mr. Wicks and discussed the matter at some length with him. On the 16th October, 1939, Mr. Wicks wrote to the Minister—

Mr. W. D. Johnson, the member for Guildford, has informed me that you desire me to state why the value of my land at the corner of Surrey and Dodd streets, Bassendean, will be reduced as the result of the Bassendean Road Board's determination to remove the frontage which the land previously had to Dodd-street.

The land contains four building blocks, and was originally surveyed to give a frontage to Surrey-street, which was then the main road. Later it was decided to make Dodd-street the main road, and I raised no objection to this, because changing the frontage to Dodd-street would improve the land from a building point of view. I have held the land 25 years, and last year paid rates to the extent of £7 13s. 2d., so you will appreciate that I have paid a considerable sum to the board in rates. I did not build, because these sites would necessitate the erection of rather expensive homes. I have built, however, many places on different blocks in Bassendean.

Mr. Wicks has been a very enterprising citizen.

When I heard the board proposed to give a new alignment for Dodd-street, and that possibly this would create a change in the front of my land, I called on the secretary of the board to ascertain what was proposed. He explained the board's intentions. I entered a verbal protest against this, and I also entered a protest to the chairman of the board, Mr. Ireland. I was under the impression that

the board was doing an illegal act, but decided to await a public announcement of their full intentions.

Although I read the local newspaper carefully, I have never seen any public announcement that the alteration was being made. My verbal protest was given to the executive officers of the board. This should have been conveyed to the board, and to the Minister when the request was lodged for gazetting this new alignment to Dodd-street.

I submit that I have been unfairly treated as a ratepayer, that my land has been reduced in value as a result of the board's action, and I further submit that the board's silence in regard to the matter should be investigated. I trust from this you will see the injustice which is being done.

This went on for some time. I telephoned the Minister, and saw him, and tried of course to see whether we could not arrive at some understanding. All the time Mr. Wicks was becoming impatient. Hon. members will appreciate my position. Mr. Wicks thought that I was unduly considerate to the Minister, and that I was leaning towards the board. It was undoubtedly one of those delicate positions in which one gets involved.

The Minister for Lands: You were involved in a lot of them.

Hon. W. D. JOHNSON: Undoubtedly I was in an awkward position, but fortunately the Minister took a view that encouraged me to think that we could arrive at some settlement. We did try to reach one.

The Minister for Lands: Before that happened we asked Mr. Wicks to disclose any——

Hon. W. D. JOHNSON: I did not want to read all the details appearing on the file. Members will pick up the thread as I go along. I have no wish to avoid reading anything material, and neither do I desire to waste time. On the 19th August last I wrote the following letter to the Minister for Lands:—

On the 27th ultimo you wrote to me concerning your further efforts to try and adjust the grievances of Mr. Charles Wicks, of North-road, Bassendean, with the Bassendean Road Board, regarding interference with the frontages of his land to Dodd-street.

I regret to say that Mr. Wicks has become impatient, and feels that the settlement has been unduly long, and he is now taking legal action to try and have his frontages restored. I am sorry that such an old resident, and a very prominent and highly respected citizen, should have to go to the law courts to try and adjust a matter in which a local governing body and the Crown are concerned.

Mr. Wicks, having had long experience in local government matters, closely follows all the activities of the Bassendean Road Board. When it was decided to change the main road from Surrey-street to Dodd-street, and later to arrange an alignment to Dodd-street, he made verbal inquiries and obtained what he accepted as an explanation of the board's policy regarding Dodd-street generally. He was not opposed to the change of the main thoroughfare from Surrey-street to Dodd-street, because the latter was a better street, and the alteration gave him an opportunity to alter the lay-out of his land from frontages to Surrey-street, and make the frontage Dodd-street. The Dodd-street locality was a much more attractive residential position, and the contour of his land was more suitable for subdivision with frontages to Dodd-street. Feeling sure that no change could be made that would detrimentally affect the frontage of his land in Dodd-street without a public announcement by the board, and then only with the consent of the Lands Department, he was not apprehensive, but nevertheless, he did again inquire, but was not informed that the board contemplated such a drastic action as to take away his frontages. The board, however, leased the land, including the acquired water reserve, without—he states—complying with the regulations regarding advertising, and he further claims that the Lands Department did not make a full examination of the proposed alteration to Dodd-street, which was as far as his land was concerned a road closure.

Mr. Wicks, being convinced that the whole proceedings were irregular, submitted the matter to me as his Parliamentary representative for ventilation and remedy. I have with your assistance tried to bring about an understanding, but having made no progress I am now forced to admit that there appears no alternative for Mr. Wicks but to take legal action. You have suggested a claim for compensation, but from the above particulars, you will appreciate that nothing short of resumption or purchase by the board could give satisfaction.

Thanking you for the interest you have taken.

Mr. Needham: Is this a private row?

Hon. W. D. JOHNSON: If it is, the hon. member interjecting had better keep out of it. When Mr. Wicks decided to place the matter in the hands of his legal advisers, that automatically put an end to my intervention. At the outset I had felt, and in my own mind was convinced, that the closure disregarded the Road Districts Act and was irregular. I took the matter up because I felt a wrong had been done. It does not concern members of Parliament who the individual may be; we have to right a wrong. Therefore I took the matter up, feeling that Mr. Wicks was the sufferer as

a result of this closure. The matter has developed until now my opinion has been legally endorsed. I shall not go further because it is not desirable to discuss details at this juncture. Apparently the object of the Bill is to put right what is a definite wrong, and to put it right at a time when I think it very unwise to make the attempt. Because of subsequent action I propose to take it is necessary to make it clear that the subject matter of the clause is awaiting adjudication before a court of law. I shall read a letter from Messrs. Stone, James & Co., to indicate to the House that the matter really is awaiting adjudication before the courts. I received the letter this afternoon. It was written, as I have mentioned, by Stone, James & Co., solicitors of St. George's-terrace, under to-day's date.

Hon. C. G. Latham: Written to whom?

Hon. W. D. JOHNSON: To me. The letter reads—

C. R. Wicks and Bassendean Road Board: On behalf of Mr. Wicks, we wish to place the position in this matter before you, in view of the legislation introduced into Parliament to effect a closure of the land in dispute, part of Dodd-street, Bassendean.

Mr. Wicks is the owner of lots 35, 36 and 37 of Guildford town lot 134 at the corner of Dodd-street and Surrey-street, to which the frontages are 250 links (Dodd-street) and 300 links (Surrey-street).

As you have inspected the site, you will be aware of the position of the resumed land, which is an "island" in Dodd-street. The position left between the resumed land and our client's blocks is 18 links (12 feet) wide and 180 links (120 feet) long. Notice of the application by the Minister for Lands to close the land was published in the "Government Gazette" of the 17th March, 1939, page 444, and the Lieut.-Governor's confirmation was published in the "Government Gazette" of the 6th April, 1939, page 593.

The land was declared a public reserve; "Gazette," 9th June, 1939, page 1026.

By an Order in Council published in the "Gazette" of the 9th June, 1939, page 1022, the Lieut.-Governor, under Section 33 of the Land Act of 1933-38, directed that the land should vest in the road board in trust for an ornamental park with power to lease it for any term not exceeding 21 years.

In or about June, 1939, the board leased the land under Section 156 of the Road Districts Act to H. L. Brisbane & Wunderlich, Ltd., for three years, and that company has erected a miniature house, etc., by way of advertising their products and also a fence on the boundaries.

On behalf of our client we issued a writ on the 5th September, 1940, and delivered a statement of claim on the 17th September asking for a declaration that the land was not lawfully closed and an injunction restraining the defendants from maintaining the obstruction to Dodd-street. Brisbane & Wunderlich, Ltd., have agreed not to contest the case and will abide by the decision of the court. The road board has not yet delivered a defence, which however is overdue. Upon delivery of this defence the action can be set down for hearing either at the November or December sittings of the Supreme Court.

The procedure for permanently closing a road is set out in Section 151 of the Road Districts Act and it is thereby provided that on the closure of a road, by the confirmation of the Governor, the land on which the road existed shall again form part of the locations from which it was originally taken and every part of the closed road shall vest in the owner for the time being of the land fronting such part, and if the lands on opposite sides of any such part of the closed road are owned by different owners, the contiguous half of such part to the middle thereof shall vest in each owner.

Our client is adversely affected in that he cannot divide his blocks so as to front Dodd-street and is deprived of the advantage of owning a corner block.

You will notice from our quotation from Section 151 of the Road Districts Act that the intention of the legislation is that upon closure of a road, it shall vest in the owner or owners of contiguous land, so that if the 12 feet wide space had not been left along our client's land the closed portion would have become the property of Mr. Wicks.

The whole scheme of the section is that an owner of land abutting on a road may apply to the road board to close the road and if the board assents and the Governor confirms such assent, the road is thereby closed and vested in the owners of contiguous lands as mentioned. One of our contentions (and there are other points involved) is that there is no power to close a portion of a road forming an "island," thereby depriving a neighbouring owner of his right to have the closed road vested in him.

Apparently the Crown Law Office shares our opinion that the purported closure is unlawful, but the Minister seeks by special legislation to deprive our client of his remedy at law for the damage done to him.

That letter makes it quite clear that the subject matter of the clause is sub judice. In the circumstances I do not propose to go further into details. I will have an opportunity to raise the point, which I consider will be fatal to the clause. I shall

not oppose the second reading of the Bill but I trust that in Committee the right course will be adopted by members.

HON. C. G. LATHAM (York) [8.48]: A perusal of the plan that has been tabled leaves no doubt in my mind that the individual concerned has not the grievance that some may believe. He owns three blocks of land fronting a street which was the main road running into that area. Apparently he was perfectly satisfied, and no doubt the price he paid was governed by the road constructed in the locality at the time. Subsequently a recreation ground was established there and fenced in.

Hon. W. D. Johnson: That existed for many years.

Hon. C. G. LATHAM: It was recently fixed up.

Hon. W. D. Johnson: There was a new alignment.

Hon. C. G. LATHAM: Quite recently there were adjustments and improvements to the area.

Hon. W. D. Johnson: That is so.

Hon. C. G. LATHAM: A road was put through and it is a main road from North Perth to Maylands.

Mr. J. Hegney: It is not a main road.

Hon. C. G. LATHAM: Yes, it is.

Mr. J. Hegney: No; that matter was taken up and it is not a main road.

Hon. C. G. LATHAM: At any rate, it is a main thoroughfare running from Mt. Lawley through Maylands to Midland Junction. After the new road had been constructed, Wicks suddenly found that he might be able to increase the value of his land. An inspection of the plan shows that the land would be removed from the road itself. I admit there is the legal issue as to whether the Minister for Lands has authority to close a road if he is not the owner of the road within the meaning of the Road Districts Act; but if that contention is sound, then it is time such authority was given to the Minister. The closure of this road, however, does not affect the property at all; it is still a corner property.

Hon. W. D. Johnson: No.

Hon. C. G. LATHAM: It is. The advertisement area contains 21.9 perches; after all, it is a tiny piece of land. Mr. Wicks has a frontage to a road; he is on a corner of a reserve, with a footpath between it and the vested road.

Hon. W. D. Johnson: He has not got a road frontage; it is a footpath frontage.

Hon. C. G. LATHAM: But still he has a corner block. I do not think he has any grievance at all. There is, however, one point which I consider fatal to this clause of the Bill.

The Minister for Lands: I could throw more light on the matter.

Hon. C. G. LATHAM: A dispute is in existence which the courts have been asked to decide. Therefore, it would be wrong for Parliament to step in now and alter the existing law. I think this is the first time that such a step has ever been contemplated by this House.

Hon. W. D. Johnson: I have never known it to happen before.

Hon. C. G. LATHAM: The principle is wrong. I am surprised at the Crown Law Department advising such a course to be followed. Sometimes decisions of the courts have led to an alteration of the law; but at the present time we ought not to set up a principle that is absolutely wrong. Suppose I had a law case and had sufficient influence to induce some member of Parliament to secure an alteration of the law in my favour because I thought there was a chance of losing my case, such a procedure would be entirely wrong.

Mr. Hughes: Have you ever heard of that being done?

Hon. C. G. LATHAM: No.

Mr. Hughes: Did you never hear of a man named Clydesdale?

Hon. C. G. LATHAM: Yes. Was the law altered in his case?

Mr. Hughes: Yes.

Hon. C. G. LATHAM: Then that action was wrong, and similar action now would be wrong. I remember that something was mentioned to me about an action taken against a member of Parliament. That case was certainly different from the one we are now considering. Parliament, in good faith, had appointed that person to a position on a commission. In this case, the person has commenced his action and we should not amend the law in such a way as to deprive him of his legal right. I ask the Minister to agree to the deletion of the clause.

MR. SAMPSON (Swan) [8.54]: No one can have any doubt that Mr. Wicks, the owner of the lots abutting on Surrey and Dodd-streets, has suffered injury. I admit that the advertisement which has been erected—it is an advertisement for the famous Bristile tiles—is a good one, but it is by no means advantageous to Mr. Wicks. It is a bad thing for him, because it would certainly be unwise for him to make arrangements for the erection of buildings fronting Dodd-street, for the reason that Lots 35, 36 and 37 each contain one quarter of an acre, and a frontage to an extent of at least two-thirds of the depth of 250 links would be injured by what is now the existing advertisement block.

Hon. C. G. Latham: That block is much prettier than the road would have been.

Mr. SAMPSON: It is a beautiful block, but it excludes the use of Lots 35, 36 and 37 so long as the miniature cottage and other erections remain on Lots 2 and 8.

Hon. C. G. Latham: The lots in question have a frontage to the other street.

Mr. SAMPSON: Admittedly, to Surrey-street; but that street is no longer the principal street. I have often travelled along that street and admired the advertisement, but I did not know the facts nor did I realise the grave injury done to the owner of Lots 35, 36 and 37. A few years ago Surrey-street was what might be termed the main road, the continuation of the old Guildford-road leading into Guildford. With the improvement of the locality and the development of the reserve on Location 7401, the road for vehicles travelling from Perth via Bassendean to Guildford took a new course. But for that, the owner of Lots 35, 36 and 37 would have reaped an advantage; the unimproved value of his land would have been enhanced, but he would have had to pay additional rates. The position is certainly a difficult one. The matter is sub judice and I question whether, in the circumstances, it is properly—certainly it is not equitably—brought before Parliament. Parliament has the power of a giant. I hope it is not going to use that power like a giant, but that it will treat this man as he should be treated. I trust that what has been said to-night will not prejudice his position or injure his rights. Due notice was given in the "Government Gazette," but I have never heard of anyone who read the "Government Gazette" for any reason other than that it was his duty to do so. The ordinary citizen would certainly not read it. However, there is a local newspaper circulating in Bassendean called "The Swan Express."

The Minister for Mines: Does anybody read that? Who runs it?

Mr. SAMPSON: Had an announcement of the board's intention under the appropriate section of the Act been published in the "Swan Express" or the "West Australian," I have no doubt that steps would have been taken by Mr. Wicks to prevent the erection of this fence and the excellent advertising display that exists there today. The House might fairly approve the closure of all the reserves mentioned in the Bill except this particular one; but if we approve this closure, we shall act with an absence of fairness and equity towards Mr. Wicks. I realise that the position is an awkward one, but there is an obligation on those concerned to do what is right. Wrong having been done, I take it the House will not endorse something which is unfair and lacking in equity.

MR. HUGHES (East Perth) [9.2]: So far as this legislation is to be retroactive, it is bad. All retroactive legislation is bad. I suppose it will be considered that I am speaking from a purely personal angle. I always thought that the passing of the retroactive legislation that affected me was a poor use of Parliament's powers, and I do not think anyone will seriously contest that viewpoint. But I submit to the Minister that there is another angle from which to look at this matter. The Government and the various road boards and municipalities throughout the State have vested in them considerable powers which they frequently abuse because of their financial strength. A person who is injured is unable to fight the Government or a local authority, and consequently actions are taken which prejudice the rights of individuals who suffer rather than take the risk of beginning a legal battle with a powerful institution. I do not know the merits of the case being discussed, but when action is taken such as is alleged to have been taken in this instance, a vital principle is frequently involved that concerns more than just the actual litigant. When a person claims that his rights have been infringed and takes

legal action to defend them, he is really defending the rights of the citizens at large. If Parliament steps in while he is defending his rights, and passes legislation that takes those rights away from him, Parliament thus deprives the people of the means of protecting their constitution. One thing wrong with this State is that there are many constitutional rights that can be protected only by action on the part of the Attorney General. There is no provision to allow a private citizen to maintain the public right if the Attorney General will not act. A large number of our constitutional rights are of no use because nobody can enforce them except the Attorney General. If we are to maintain our constitutional rights, there should be provision for anybody to maintain them when the proper constitutionally appointed officer will not do so.

If there is a dispute as to whether a road closure has been lawfully carried out or not and a test case has been brought before the court, it is wrong for this Parliament to step in and nullify the effects of the decision before the decision is given. Such action has also this effect: it is a warning to people who are endeavouring to maintain their rights against any constitutional power, not to start proceedings because, with this as a precedent they know that when they got halfway through such proceedings, Parliament would be likely to step in. To enforce the Constitution of Western Australia in some respects to-day is impossible because the moment a citizen attempts to do so, Parliament can step in and nullify the Constitution because it has created two or three very bad precedents. A vital principle, going far beyond Mr. Wicks and these three blocks of land, is involved. It is not possible to say that Parliament should never pass retroactive legislation because circumstances have arisen in other countries where Parliaments have had to pass such legislation, but in those instances Parliament has always taken steps to ensure that nobody suffered as a result. There was a recent example of this in Ceylon where the Parliament provided that those adversely affected by retroactive legislation were compensated. When the Parliament set out to rectify a Parliamentary error, it did so, but provided compensation to all parties, so that nobody was injured. In view of the fact that proceedings have been started by the landholder concerned to maintain his individual rights —and thereby to defend an important constitutional right of the citizens at large— Parliament should proceed with this Bill only on condition that the Government buy these three blocks of land or compensate the owner for the adverse effect.

The Minister for Lands: We have endeavoured to rectify the matter by compensation.

Hon. W. D. Johnson: Not by purchase.

Mr. HUGHES: If that is the case, then the right thing has been done. I do not see that it is necessary to purchase the whole of the land. I take it that the compensation to which the owner is entitled is the difference between the value of the land before and after the closure.

The Minister for Lands: It would depreciate the value, as I will explain directly.

Mr. HUGHES: The payment of compensation is the natural and just corollary of retroactive legislation.

MR. McDONALD (West Perth) [9.10]: To enable the Minister to reply to any views I express, I will put them forward now. This is a conflict of rights under the existing law. If the road board is in the right under the existing law, then there is no need for this legislation. If Mr. Wicks is in the right and his right is upheld by the courts, then by this legislation we propose to take away the right he now has under the law. If we in Parliament by this legislation take away his right, we do so without hearing Mr. Wicks, without knowing the extent of any damage that will be done, without providing for compensation, without even indemnifying him for the legal expenses he has legitimately incurred up to the time of Parliament's taking away his right. The mere fact of taking his right away by Act of Parliament is virtually an admission that he has that right, and therefore virtually an admission that he is entitled to go to law and not unreasonably incur the expense of so doing. I therefore submit that on principle Parliament should not step in where a man has or may have certain legal rights which he is legitimately endeavouring to establish in the courts of law by process that is proceeding at the present time.

The matter has a further aspect. If Mr. Wicks establishes through the law courts that his right has been violated by the road board, and if the decision illustrates a weakness in the reasonable powers of road boards or of the Crown as regards the closing of roads, then the time will have arrived to amend that weakness by proper legislative action. That action should surely be by amending the Road Districts Act so that it will apply to all road boards and to all residents of road districts. It should be undertaken by Parliament on principle. If there is a weakness in the powers of the Crown or of road boards in connection with the closure of roads, that weakness should be cured. We should not do it elsewhere by a specific, isolated piece of legislation dealing with only one case affecting the rights of only one individual and one road board. The Minister said, I gathered, that it was proposed to give certain compensation to Mr. Wicks.

Hon. W. D. Johnson: That is not correct.

Mr. McDONALD: I understood the Minister contemplated that certain compensation should be given.

Hon. W. D. Johnson: Mr. Wicks must take what compensation is offered.

The Minister for Lands: We asked him to name the amount of compensation.

Mr. McDONALD: If compensation is to be offered to Mr. Wicks—it does not matter what kind it is—and he is prepared to accept it, we do not need this legislation affecting his land. If the matter is finalised by compensation offered and accepted, then all that this piece of legislation seeks to do can be done by agreement between the road board and Mr. Wicks without coming to Parliament at all.

Hon. W. D. Johnson: Hear, hear!

Mr. McDONALD: If, on the other hand, the Government offers compensation and Mr. Wicks refuses to accept it, or if the Government invites him to name a sum of compensation and he declines to do so, Mr. Wicks is quite within his rights in saying, "I have a legal right and propose to establish it. I am not prepared to surrender my legal right for the payment of any sum of money. I am asserting a principle on my own behalf and on behalf of other people, and intend to establish it in the courts by proceedings that I am entitled to take."

Hon. W. D. Johnson: That is the point he takes.

Mr. McDONALD: Whether his attitude is reasonable does not matter very much when considering the principle. If he has a right that he can establish, then under the law he is entitled to maintain his right. It might be unreasonable of him to refuse compensation, but we cannot compel him to accept it. I hope the Minister will take the view that, for the reasons mentioned by other speakers and those I have given, and also on principle, this part of the Bill should be deleted. I repeat that if there is a weakness in the power of road boards or of the Crown to make provision for the closing of roads in circumstances such as these, the proper course is to amend the Road Districts Act, thus curing the weakness and making the new legislation applicable to all road boards and to all people living in road districts.

Mr. Patrick: Mr. Wicks would not be any better off then.

THE MINISTER FOR LANDS (Hon. F. J. S. Wise—Gascoyne—in reply) [9.16]: The first point I desire to establish is that I endeavoured carefully and faithfully to explain the position when moving the second reading of the Bill. I wish to establish very clearly that any action of mine or of the Government has been action in good faith. Portion of the letter read by the member for Guildford-Midland certainly would tend to leave the impression—because the learned gentlemen responsible for it desired to leave the impression—that I, as Minister for Lands for the time being, was attempting to do something to defeat the ends of justice.

Mr. McDonald: I did not suggest that.

The MINISTER FOR LANDS: I said the member for Guildford-Midland read part of a letter written by a firm of solicitors that left that impression. In fact, the letter said so. It said that although the Crown Solicitor agreed with their view—I am replying on memory to give the effect of the letter——

Hon. W. D. Johnson: "Hansard" has the letter.

The MINISTER FOR LANDS: It said that although the Crown Solicitor evidently agreed with their point of view, the Minister in spite of that, desired to bring the matter into Parliament and correct it.

Hon. W. D. Johnson: They hardly said that.

The MINISTER FOR LANDS: That is an entirely erroneous opinion and a very improper assumption on their part. The Solicitor-General, after having been specificially asked by me whether it was proper to proceed in the circumstances, answered in the affirmative. His minute, after summing up in the final paragraph, stated—

In the circumstances, the road has not been closed according to law, and I certainly recommend that a Bill for an Act to validate the closing of the road be favourably and urgently considered by the Minister.

Hon. W. D. Johnson: That is absolutely wrong.

The MINISTER FOR LANDS: The hon. member has had an opportunity to submit his views. I wish to insist and repeat that any action of mine, of the department or the Government has been taken in good faith. Are not members prepared to concede that?

Hon. W. D. Johnson: I do not question that.

The MINISTER FOR LANDS: The point is a very important one to me. I would not allow a paragraph to be read in this House from any letter that would leave such an impression. Let us retrace the history of these proceedings. For many years Mr. Wicks has owned three blocks fronting Surrey-street in the district of Bassendean. Formerly the main road was Surrey-street. In about 1932 it was decided that the main road be deviated by Dodd-street to the river, and that was proceeded with. Portion of the road was bitumenised. From 1932 to 1939 the area, which now is part of the reserve and is occupied by Brisbane-Wunderlich's advertisement, was —to use the description of the Surveyor-General—a low wet swampy piece of land on the boundary of Mr. Wick's property following his side alignment to Dodd-street. In 1939, when Mr. Wicks found that that land had been filled, that surveys had been made, that the truncation of the road had become permanent, and that notice had been gazetted of intention to close the road, he suddenly decided, after seven years, knowing it was to be a main road, that he wanted to cut his blocks to front Dodd-street. I respectfully suggest that if he had an idea that he would gain any advantage from the main road being deviated from Surrey-street to Dodd-street, he would also realise that any benefit that he might have thought he was having conferred upon him by that alteration of the main road was also at the same time taken away by the area of vacant land being improved and made an ornamental reserve. The whole history on the file of the block shows that for years the Bassendean Road Board has requested that that triangular portion should be made an ornamental reserve. When the survey proceeded two years ago and finality was reached in regard to it, and when the water reserve adjoining the Bassendean Oval was cancelled after the road was closed, Mr. Wicks then made the bold bid of suggesting that he intended to re-subdivide his blocks to front Dodd street. That is something entirely outside his own decision, something he could not decide, but would have to submit to the Town Planning Board for approval. Might it not be that this is the case—that were it his intention to re-subdivide the three blocks he has held, which formed the subject of a subdivision in 1911, would he not have been making a dog block of his neighbour's blocks adjoining, and which are fronting the other way? Of course he would. Would not all these considerations have had to be given and made by the Town Planning Board in considering the matter? Section 151 of the Road Districts Act is the appropriate section dealing with the closure of roads. There are two or three ways in which a road may be closed. For instance, the section reads—

If (a) the majority present at a meeting of the ratepayers of a district, convened in the prescribed manner, pass a resolution in favour of the closure of a road; or

(b) The owner of any land abutting on any road or portion of a road or over, or along which any road or portion of road passes makes application to the board in writing to close the road, giving full particulars of the road, with reference to its locality and dimensions, and the owners and occupiers on each side thereof, and (to the best of the applicant's information and belief) how it became a road, whether by resumption, dedication or otherwise; and

(c) The board assent to such resolution or application, the board, after giving public notice thereof, shall request the Minister to obtain the Governor's confirmation of such assent.

Under those provisions hundreds of roads in this State have been closed. A fine legal point is involved in this matter, and it is

only a fine legal point. This man is not issuing a writ for damages because of the injury he now alleges, he is not issuing a writ against the Crown for compensation, but he is issuing a writ to prove that the road was illegally closed. He is taking a fine legal point. That legal point arises in Subsection (3) of Section 151 of the Act to which I have referred, and this is how it reads—

> The Governor may confirm or overrule such assent.

So that in a district where the adjoining owners object to the closure of a road, provided it has been properly done, and the road district concerned requests and supports the application, in spite of the objections the road may be closed, and in spite of objections many roads are closed, because it is in the public interests to do so. The section in question continues—

> On the confirmation by the Governor of such assent, the land on which such road existed (hereinafter called the closed road) shall again form part of the location or other holding from which it was originally taken, and every part of the closed road shall vest in the owner for the time being of the land fronting such part, and if the lands on opposite sides of any such part of the closed road are owned by different owners, the contiguous half of such part to the middle thereof shall vest in each owner, and for the purposes of this subsection the term "owner" shall include the Crown, and any person having an estate or interest in the land.

Those who are privileged to be legal authorities to interpret the meaning of that section place this interpretation upon it, that because Subsection (3) says that for the purpose of that section the owner shall include the Crown, that for the purpose of the other subsection the word "owner" does not include the Crown. That is a fine legal point, and it is all that the fuss is about because the Minister for Lands for the time being applied, at the request of the Bassendean Road Board, to the Bassendean Road Board to close the road. And the fine legal point is that because of the interpretation placed on Subsection (3) of Section 151 the Crown is not the owner of the road.

Hon. W. D. Johnson: On the part of the lawyers on both sides.

The MINISTER FOR LANDS: Is there not also an arguable point? Might there not be a conflicting point as to whether the Crown does not still own the road? Is there not the point that the Crown was at the time of the application and of the advertisement the owner of the adjoining block? It was the owner of the adjoining water reserve. Such reserve was not cancelled, either at the time of the application or until after that portion of the road was closed. So that everything was done in good faith, everything was done as has been done hundreds of times in respect of closure of roads. But simply because that Section 3 says, or is interpreted to mean, that the Minister shall not be the owner for the purposes of paragraphs (a) and (b), the road was improperly closed: that is the point taken. After an application was made to the Bassendean Road Board, at that board's request the matter, as the file shows, was properly advertised in the "Government Gazette." The notice prescribed by the Act was therefore given to the adjoining owners; but no word or fuss of any sort came from this ex-chairman of the same road board. Mr. Wicks, I repeat, had seven years to make up his mind whether he was going to sub-divide his block to front Dodd street. But it was not a very attractive area. The Surveyor-General has an interesting comment on that point. When asked to comment on the Bassendean Road Board's request to close the road, the Surveyor-General wrote under date of 21st September, 1939—

> From a community point of view, I consider the creation of an attractive reserve, with lawns, gardens and a small ornamental building at the junction of Dodd and Surrey streets, Bassendean, an improvement, particularly as the main road swings into Dodd-street at this point, and Surrey-street is not now a very important street.
>
> The effect of this development on the value of lot 37, which is owned with lots 35 and 36 by Mr. Wicks, is difficult to measure.
>
> On the one hand, the area between this lot and the main road has been converted from flat, swampy, unimproved land to an attractive ornamental park, whilst, on the other, difficulties of re-subdivision of the three lots mentioned have been created.
>
> Lot 37 might have had a small advertising value on account of the main road approach from Perth, but its greatest value would be for residential purposes, according to the general type of development in the locality.
>
> Surrey-street was the main road some years ago, but now Dodd-street is, hence the subdivisional question.
>
> Before any attempt is made to assess the compensation, if any, to which the owner of the subject land is entitled, I suggest that he

be requested to state the points on which he bases his contention that the value of his land has been reduced. . . .

Following that advice we asked Mr. Wicks would he name any figure which he considered a compensating figure for any alleged reduction in the value of his land. At that point, there is much communication between Mr. Wicks and the member for Guildford-Midland and the Lands Department. The hon. member saw me on more than one occasion. On one of them, when the whole thing had been clearly described to him, he said, "Well, it seems to me that if a 24ft. pathway instead of a 12ft. pathway were left, there would not be very much objection to that." That is recorded. But the hon. member tried to get Mr. Wicks to agree to that, and Mr. Wicks would not agree to it. So the whole thing has gone on, and we find that the area of land in that vicinity is not ready of sale. There is not much demand for it. I know of other owners in that locality who would be glad to quit their blocks if they could find buyers.

Hon. W. D. Johnson: This is one of the best blocks in the locality.

The MINISTER FOR LANDS: I repeat that there is not much demand, judging by the sales which have taken place in recent years. If there has been any alteration in the value of Mr. Wicks's block because of this deviation, and because of the construction of the ornamental park, it has been in the direction of enhancing the value of his block. Some people object, or have objected, it may be in a flippant way, to the advertising in parks by Brisbane Wunderlich Limited; but I may say that the member for Claremont (Mr. North) is very proud, as is also the member for Nedlands (Hon. N. Keenan), of that beautiful ornamental park in Claremont which is the subject of admiration by people from other States, from overseas, and from people within this State.

Mr. North: It is highly original.

The MINISTER FOR LANDS: And so it is with the improving of that little area which was reserved as an ornamental reserve—which was useless as part of the road, and formerly was part of Dodd-street. I repeat that Mr. Wicks might have a case for a point in law to show that this road was improperly closed: but the Lands Department acted as it has always acted, believing that it was following the course of law and believing that it was acting with justice and in the best interests of the public. The department was actuated by that belief, and supported in that belief by the Bassendean Road Board, which requested that that portion of the road be closed; and in order better to utilise the closed portion, part of the area closed and formerly being part of the road was beautified—as I think, to the great benefit of the surrounding area. In any case, the Crown was an adjoining owner. It is too fine a point to argue that the Crown, having vested an area of land in a road board for a road, ceased to be the owner. I think we find that power in Section 160 of the Road Districts Act, whereunder roads may be created and vested in boards. There it is clearly stated that "subject to the Public Works Act there shall vest in the board of the district in which the same respectively are, all roads and the materials thereof and all things appurtenant thereto." So that is it, and it is an arguable point also that the road is still the property of the Crown and that the Minister was the owner at the time of the request that the road should be closed. There is no desire at all to prejudice any case. The action which forms the subject of the clause in the Bill has been developed on the advice of the advisers to the Minister and to the Lands Department; and the final advice, when the matter was specifically sought to be tested whether it was the right thing to do or not, given by the Solicitor-General was, "Yes; the matter of closing the road should be favourably and urgently considered by the Minister." That is under date of the 19th September, 1940.

Firstly, I desire to make it clear that the Government acted knowing all the facts and on the basis of the best advice it could get in connection with the matter. Cabinet considered the matter, and on the advice of the Solicitor-General decided that it was right and proper to do at this stage what it was thought then, and has been thought for a generation, is done when this process takes place. There is no need for me, I submit, to offer any other defence of that clause in the Bill; and I hope that the Bill as it is printed will be carried.

Question put and passed.

Bill read a second time.

In Committee.

Mr. Marshall in the Chair; the Minister for Lands in charge of the Bill.

Clauses 1, 2—agreed to.

Clause 3—Closure of portion of Dodd-street in Bassendean:

Point of Order.

Hon. W. D. Johnson: On a point of order, Mr. Chairman, I draw your attention to "May's Parliamentary Practice" wherein, on page 323, it states—

> Matters pending judicial decision: Matters awaiting the adjudication of a court of law should not be brought forward in debate. This rule was observed by Sir Robert Peel and Lord John Russell, both by the wording of the speech from the throne and by their procedure in the House, regarding Mr. O'Connell's case, and has been maintained by rulings from the chair.

Mr. Hughes: But you brought the matter forward!

The Minister for Lands: You raised the debate!

Hon. W. D. Johnson: I did not. There was no other opportunity for me to raise it. I did not go into details. All I did during the second reading debate was to prove that the matter was awaiting adjudication by a court of law. In order to prove that, I read the legal advice given to the man who has taken action. In any case, I submit that the matter is sub judice, and that we should not proceed further with the clause.

The Chairman: Does the hon. member desire a ruling?

Hon. W. D. Johnson: Most decidedly.

The Chairman: I find it somewhat difficult to give a decision. I would like to hear what the Minister has to say on the point. I am not under any obligation to consider any but one factor, and that is whether this matter is pending adjudication by a court of law. If that is so, the clause must be ruled out of order, but I have yet to learn that the matter is before a court of law. True, the member for Guildford-Midland read a letter from a firm of solicitors, but that is only one side of the question. Before I give a ruling, I would like to be informed by the Minister whether he has information to the contrary.

Hon. C. G. Latham: The case will be before the courts, because a case has been cited.

Mr. Hughes: "May" merely says that the matter cannot be discussed.

The Minister for Lands: There are two points. One, being a matter of law, can better be dealt with by the legal members of the Committee. However, my view of the matter is that the extract from "May," which was read by the member for Guildford-Midland, sets out that no such matter should be argued or debated.

Hon. W. D. Johnson: That it should not be brought forward for debate.

The Minister for Lands: If we have erred, we have erred not because the matter is before the Committee for decision but because it has been discussed. The second point is that the clause deals with a matter that may never reach the court.

Hon. W. D. Johnson: But it is awaiting adjudication.

The Minister for Lands: The matter may never reach the court for adjudication.

Mr. Hughes: But a matter is before the court once a writ is issued.

The Chairman: I would like to know whether this matter is awaiting adjudication by a court of law. Is the Minister aware of the issue of any writ or the taking of any legal proceedings, the effect of which would be to bring this matter before the court for adjudication?

The Minister for Lands: It is very definite that action has been taken. A statement has been filed, and there has been an interchange of papers between one side and the other.

The Chairman: If that is so, I have no alternative. We always follow the procedure and practice laid down in the House of Commons. Standing Order No. 1 says that where our Standing Orders are silent, the procedure we shall adopt is that of the House of Commons. I find in "May's Parliamentary Practice," on page 323, the following—

> Matters awaiting the adjudication of a court of law should not be brought forward in debate. This rule was observed by Sir Robert Peel and Lord John Russell, both by the wording of the speech from the throne and by their procedure in the House, regarding Mr. O'Connell's case, and has been maintained by rulings from the chair.

As there is no evidence to the contrary, it appears to me that this matter is pending adjudication by a court of law, and I must rule the clause out of order.

The Minister for Mines: On a further point of order, Mr. Chairman, may I ask what you are ruling out of order?

The Chairman: I have ruled out of order the clause referring to the closure of Dodd-street in Bassendean.

The Minister for Mines: Then I take it that the matter has no right to be before the Committee at all. You are ruling that it cannot be brought forward for debate.

The Chairman: Not for debate.

The Minister for Mines: Can a decision be arrived at by the Committee on the clause without debate? I think your ruling was definite.

The Chairman: It cannot be brought forward for debate.

The Minister for Mines: We cannot argue the matter, but can the clause be adopted in Committee without debate?

The Chairman: No, it cannot be adopted in this Committee if the matter is before a court of law for adjudication.

The Minister for Mines: It cannot be put to the vote without debate?

The Chairman: No, I have ruled the clause out of order; therefore it cannot be made the subject of a vote of this Committee.

Mr. Hughes: Mr. Chairman—

The Chairman: There can be no further discussion on my ruling unless the hon. member proposes to disagree with it.

Dissent from Chairman's Ruling.

Mr. Hughes: I hope there will be further discussion, so I must dissent from your ruling.

[*The Speaker took the Chair.*]

The Chairman having stated the dissent.

Mr. Hughes: I submit that the ruling of the Chairman of Committees is wrong. He has misinterpreted the principle laid down in "May" by extending the subject-matter of litigation to the subject-matter of legislation. It is a fact that members cannot discuss in debate a matter that is before the courts; but it has never been held before that Parliament could not—even while proceedings were taking place in a court—legislate concerning the subject-matter of those proceedings. I submit that the correct interpretation of the principle laid down in "May" is this: That a member would be quite in order in drawing attention to this Bill and going so far as to say that the matter was already before the court, provided he did not then proceed to discuss the merits of the case before the court. The history of the House of Commons is interspersed with Bills to provide for compensation; frequently those Bills are dealt with after the matters have come before the court. I doubt whether anywhere in "May" will it be found, either by expression or by implication, that Parliament should not legislate in respect of any matter awaiting trial or before a court. That would take away Parliament's rights under the Constitution. Under our Constitution, Parliament has the right, without limit, to make laws for the order and good government of Western Australia. This Parliament has the same powers as has the House of Commons in that respect. The opening words of our Constitution are: "Power to make laws for the peace and good government of Western Australia." If that power is subject to limitation, the moment proceedings start in a court of law, the judiciary is placed above Parliament and Parliament becomes powerless.

Mr. Patrick: Someone could issue a writ after the first reading of a Bill.

Mr. Hughes: Yes. As the member for Greenough points out, as soon as the first reading of a Bill was promulgated somebody might issue a writ, and then Parliament would be hamstrung. I suggest that members can discuss this clause as a road closure proposition and as a piece of restrictive legislation. Parliament can discuss the merits and demerits of the clause; it can go so far as to say there is a case before the court dealing with the matter. If Parliament goes no further it will not transgress. It is curious that the member who brought forward this matter of judicial proceedings should be the member to raise the point; nevertheless, he is quite entitled to do so. I respectfully submit that, insofar as the Chairman of Committees has ruled that Parliament is precluded from considering this clause on its merits as a prospective piece of legislation, he was in error.

Hon. N. Keenan: It is much to be regretted that the debate on this matter has taken place, because the merits of the case have been discussed when they do not matter an atom.

Mr. Patrick: Hear, hear!

Hon. N. Keenan: As I say, the merits do not matter when it is only a question of Parliament taking certain proceedings which would apply to a subject's rights which he conceives—and quite wrongly conceives—he is possessed of and which he is attempting to assert in a court of law. On the question before you, Mr. Speaker, I personally do not doubt for a moment that there is no restriction whatever and no limit whatever on the power of Parliament. It matters not whether proceedings are commenced in the High Court of Australia or in any other court in Australia, Parliament retains its full powers to do just what in its wisdom it thinks is right. I will go so far as to say that even with the relationship of the State and the Federal authorities, if a conflict took place on a matter in which the Commonwealth attempted to assert its authority by its military forces, the State Parliament could nevertheless—if it were of such a mind—determine the matter as it thought fit. In my opinion, there has been a grave misconception of the words that are to be found in "May." The word in this case is not "shall" but "should." What it means, as I conceive it, is this: it is Parliamentary practice, when litigation is proceeding, that such litigation is not discussed in the House. It is a matter purely and entirely of Parliamentary practice, and therefore not binding for one moment on Parliament. Parliament can always alter its own practice.

I repeat, I regret that the matter has arisen. I should be pleased if the Minister would omit the clause and take some other steps to alter the law, which at present appears to be in an undesirable state of doubt. I refer to the Road Districts Act. But on the point before you, Mr. Speaker, I am reluctantly compelled to come to the conclusion that neither you nor the Chairman of Committees can take away from Parliament the right to discuss any matter which the House considers it necessary to discuss.

Mr. Marshall: I quite agree, but the point is a particularly fine one. I do not think there is a greater authority on points of this sort than the member for East Perth. I respectfully suggest that his utterances should be accepted as authentic. I wish to point out to you, Mr. Speaker, that while "May" says that a matter which is sub judice should not be brought forward in debate, if we limited the interpretation in that way, then what the member for East Perth complained about so bitterly on the second reading would happen. He went to no end of trouble to show that when an individual was fighting for his citizenship rights under the Constitution of the country, if we agreed to a clause of this sort, it would be a case of Parliament stepping in and denying him those rights, and he would be hopelessly bogged because he would be financially unable to carry on a conflict.

Mr. Hughes: How have I retracted?

Mr. Marshall: Now the hon. member says this: You must not debate a matter but you can give a decision on it. If we accept that as the correct procedure, on every occasion when a Government wishes to prevent a citizen from obtaining his constitutional rights all it will need to do is to submit similar legislation, assert that the matter cannot be debated but that a decision can be reached and so deny the individual his freedom and citizenship.

Mr. Hughes: Did not I say "subject to compensation?"

Mr. Marshall: I listened very attentively to all that was said. Because I anticipated this trouble, I never left the Chamber and I assert that the member for East Perth did imply what I have said. He said that legislation such as this, if given effect to, would probably deny this man his just rights under the Constitution. Therefore what is the alternative?

Mr. Hughes: And I said that it was bad in principle.

Mr. Marshall: Yes. Now the hon. member says that while we cannot bring the matter forward in debate, Parliament can still remain all-powerful and, by giving a silent decision on the matter, do the very thing he objected to on the second reading.

Mr. Hughes: God preserve me from my interpreters!

Mr. Marshall: I think the hon. member speaks fairly clearly, and I have not yet suffered from deafness. I heard his utterances.

Hon. W. D. Johnson: Lawyers can argue both ways.

Mr. Marshall: They are paid to do that. This a very delicate and fine point, but my contention is that if a case is before the court, and to bring the subject matter of that case before Parliament and debate it is

harmful, we do not lessen the possibility of inflicting injury by giving a silent decision on it. In effect, the result would be the same. Having that in mind, I ruled the matter out and when the further point was raised I suggested that as the matter could not be debated in accordance with that ruling, the effect on the party concerned of a vote taken without debate would be precisely the same.

The Minister for Mines: What the member for Murchison has said about the arguments used by the member for East Perth do not come into the matter. The member for Murchison says that the member for East Perth stated that this was bad legislation. He is entitled to that opinion. All of us may think that, but the question is not whether this legislation is good, bad or indifferent. What we are discussing is the interpretation of "May" on this particular item. I agree with the member for Nedlands that Parliament has the sole right to conduct its own business. I do not think it has ever been admitted, in this Parliament at any rate, that that passage in "May" was meant to debar this Parliament or any other Parliament from taking any action by legislation. What is really meant in my opinion is that in the course of a debate, which may have nothing to do with a subject such as we have been discussing, no member is entitled to introduce during the debate some other matter which is sub judice, and which may be altogether foreign to the debate. This is a serious matter because, if this ruling is allowed to stand, it will be impossible for anybody to get justice through the action of Parliament. It would be easy for any individual to issue a writ to prevent any Bill from being discussed in this Parliament. We must remember that when Speakers are called upon to give rulings, those rulings, if they are upheld by the House, stand until they are upset by some other Speaker, or by the House itself. I am not concerned with the merits or demerits of this case because they do not come into the question. The only matter with which we are concerned is as to whether the interpretation of that passage in "May" given by the Chairman of Committees is correct. I contend it is not and that the House would be wrong to uphold his decision and allow itself to be swayed by the merits of the case, which has nothing to do with the Chairman's ruling.

Hon. W. D. Johnson: On the second reading I carefully refrained from going into the case now pending. It is true I had to explain exactly how it arose, but after explaining that, all I had to do, to make it wrong to proceed with the clause of the Bill, was to prove that the subject matter of the clause was awaiting the adjudication of the court.

Mr. Speaker: Can the hon. member tell me whether that has been established?

Hon. W. D. Johnson: Yes. The Chairman of Committees will, I think, endorse this: that he requested the Minister for Lands to state whether the subject matter was awaiting the adjudication of the court, and the Minister did not deny that a writ had been issued. I do not think there is any difference of opinion on that point. It was for that reason I read the letter from Mr. Wicks' solicitor, clearly proving that the case is awaiting the adjudication of the court. Let us reason it out. In the first place we must be guided by Parliamentary practice. Our first duty in protecting the rights and privileges of this Chamber is to study our standing orders. Those standing orders are paramount in all matters covered by them, but where the standing orders are silent on any matter, we must have recourse to the practice of the House of Commons. To ascertain the practice established and followed by the House of Commons, we have to consult "May." "May" is as much a guide to the House of Commons as it is to this Parliament and to all other Parliaments in the Empire. Therefore we have to take "May's Parliamentary Practice" as our guide on this question, and it definitely states that a subject matter which is awaiting the adjudication of the court—not under consideration—should not come forward in debate. Will any member, in democratic surroundings such as we in Western Australia enjoy, reason that a clause may be inserted in a Bill but cannot be debated and yet may be passed? It is not reasonable, and members know that that is not the customary practice. We must follow the established practice. That is what we do in all our actions. Once we establish a practice we follow it, and the established practice, of course, is absolute freedom of debate in Committee on all clauses of the Bill. On the second reading

a clause may not be debated. Had it been possible to debate the clause on the second reading, I would have taken the point then. The second reading debate was on the Bill as a whole, and the Bill contains other provisions. I could not ask that the Bill be ruled out; it could only be ruled out on the second reading. Therefore all I had to do on the second reading was to establish the fact that the subject matter was awaiting the adjudication of the court and then await the opportunity in Committee to raise the question of Parliamentary practice. I submit that it would be very dangerous for us to accept the argument that "May's Parliamentary Practice," correctly interpreted, permits of a clause being passed but prohibits debate upon it. If members are going to endorse that principle, democracy in Western Australia is certainly not safe. The point taken is that the matter should not be brought forward.

The Minister for Mines: In debate.

Hon. W. D. Johnson: Yes, in debate. If it cannot be brought forward in debate, it should not be brought forward at all.

Mr. Marshall: That is right.

Mr. Hughes interjected.

Hon. W. D. Johnson: The member for East Perth is regarding the matter from a personal instead of a public point of view. Because it is said that the matter should not be brought forward in debate, I feel alarmed at the recommendation of the Solicitor-General. I think that is something that should not be overlooked. There is Parliamentary practice and it is recognised as public policy that to introduce legislation to prevent a man from continuing with his case after a writ has been issued is wrong in principle and is not morally right.

The Minister for Mines: You are now discussing the merits of the case and not the question before the Chair.

Hon. W. D. Johnson: Therefore the opinion given by the Solicitor-General is, to me, a most alarming one that will make me extremely careful in future in accepting the advice given by public servants.

Mr. Speaker: I point out that the Solicitor-General's letter does not enter the matter under discussion.

Hon. W. D. Johnson: It was quoted. However, I do not wish to go further than that; I mentioned it merely to point out that the bringing forward of the subject matter for debate is wrong and therefore I agree with the member for Nedlands that it is to be regretted that it was introduced. I was told that there was a possibility of this being done and I shook my head and said, "No, that will never be done. They will never attempt that." Therefore I felt quite satisfied; the matter had gone into the courts, I was finished with it and the courts would decide the issue. On consulting "May," I could see that this was not a matter that should be debated, and I adopted the course already explained to the House of saying nothing of the merits of the case of Mr. Wicks, the road board, or anyone else, just to prove that it was awaiting adjudication by the courts. Having done that, I submit that the clause is out of order and that it would be wrong to proceed.

Mr. Holman: The point that appeals to me is that although the member for Guildford-Midland says that this matter should not have been brought forward in debate, I would be lacking in mentality if I could not appreciate that the letter read by the hon. member contained some of the properties of debate. The letter from the solicitors did contain reasons why this man——

Mr. Patrick: The letter should not have been read.

Hon. W. D. Johnson: I had to read it.

Mr. Holman: If the matter was out of order it should have been raised, not on the second reading, but at the time the hon. member says was the right time. That gave members an opportunity to discuss the question, and I now feel that I am fully conversant with all the facts. However, a major point has been raised that we shall be taking away the right of an individual, but it appears to me that by agreeing with the ruling, we shall be taking away the supreme rights of Parliament. That is the point to which I attach the greatest importance. For the reasons I have given, I think the ruling on the subject is not the correct one.

Mr. McDonald: May I offer an illustration of the meaning intended by "May"? If there should be pending in the courts a case involving libel, or divorce, or possibly an industrial dispute between a union of employees and the employers, it would not be proper, according to "May," to raise in debate in Parliament the merits of such a case, where Parliament had no intention of

legislating on the particular subject matter in dispute. If, on the other hand, there may be a case pending of the same kind, possibly in divorce or slander or some industrial dispute, and legislation is before Parliament for the purpose of dealing with the specific matters concerned in the dispute, whether industrial or otherwise, I can see nothing to prevent the matters which are the subject of dispute, and are to be dealt with, amended, or remedied by legislation, being raised in debate. I think that is all that "May" means on that point. Where Parliament is not itself dealing by legislation with a dispute, and the case is to be dealt with by the courts, as a rule of conduct it should not be raised in debate. On the other hand, where Parliament has brought forward legislation and debated legislation dealing with the specific matters, it cannot be curtailed, and it has a right to pass any measure it thinks fit, and debate whether it ought or ought not to pass such measure.

Mr. Speaker: I do not think there is any doubt, since I have read the letter from the legal firm that is acting for Mr. Wicks, that this particular case is before the courts. We have had it stated that the subject cannot be debated, but it has been suggested that it can be put from the Chair without debate. If that were done it would nullify a practice that has been followed for many years, a practice that has been established ever since I have been a member of this Chamber. The portion of "May's Parliamentary Practice" that was quoted indicated that matters awaiting the adjudication of a court of law should not be brought forward in debate, and all the argument has been pointing to that. In another portion of "May" we find that not only should such a matter not be brought forward in debate but that matters whilst under adjudication by a court of law should not be brought before the House by a motion or otherwise. That points clearly to the fact that a matter should not be brought before Parliament whilst awaiting adjudication by a court of law. I find there is a precedent established by a previous Speaker of this House on the 13th February, 1918. When a motion was moved that certain papers should be laid on the Table of the House, Mr. Speaker said—

> Before the hon. member moves the motion, I ask him to give the House an assurance that the case spoken of in the motion is not before any law court at the present time.

Mr. Maley: I cannot give you that assurance, Mr. Speaker. The case is the subject of an appeal to the High Court.

Mr. Speaker: Then it is before the court, and I shall have to rule the motion out of order. In doing so I should like to refer members to page 278 of "May," eleventh edition, which reads as follows:—

> A matter whilst under adjudication by a court of law, should not be brought before the House by a motion or otherwise.

I must rule the motion out of order under those conditions.

In the circumstances, I have no alternative but to uphold the ruling of the Chairman of Committees that the clause is out of order.

Committee Resumed.

Clauses 4 to 7, Second Schedule, Title—agreed to.

Bill reported with an amendment.

BILL—ROYAL AGRICULTURAL SOCIETY ACT AMENDMENT.

Second Reading.

THE MINISTER FOR LANDS (Hon. F. J. S. Wise—Gascoyne) [10.27] in moving the second reading said: This is a short and very simple Bill. It provides for an amendment of Section 6 of the principal Act. That Act, too, will be found to be a short one. There is power under it for the Royal Agricultural Society to make uniform by-laws. In the formation of those uniform by-laws, certain specific requirements are set out for all affiliated societies to uphold and adhere to. In the working of the domestic activities of the affiliated societies it has been found that there is a danger of conflicting with the uniform by-laws of the parent society. For example, the uniform by-laws under which affiliated societies are intended to operate may contain the provision that the secretary of the local society should not be the treasurer, but that provision should be made for both officials. In minor domestic matters of that nature it is found in practice that the local societies come into conflict in their domestic affairs with the requirements of the uniform by-laws. Representatives of the Royal Agricultural Society approached me and placed their case fully and substantially before me. They claim that it is necessary for them to retain the right of controlling important matters affecting the affiliated bodies—such as the

allocation of dates, and those important things over which the parent society should exercise some decision—but that the affiliated societies should have sole control and right in regard to their domestic affairs, such as the appointment of their committees, the provision for presidents and vice-presidents, and all matters in which there is no necessity for any reference—or approval, for that matter—to the parent body, and certainly no desire nor any need that all domestic matters throughout the State should, in spite of local circumstances being different, be operated under a uniform system of by-laws. I think hon. members will see the grave danger that could obtain in an Albany domestic by-law being considered not desirable because inconsistent with a domestic by-law obtaining in Geraldton or Kalamunda.

Mr. Sampson: Or it might conflict with a Northam by-law.

The MINISTER FOR LANDS: Yes. It might conflict with some local requirement. So that the desire in this amending Bill is to amend Section 6 that the defined activities of affiliated societies on important and vital matters should come within the jurisdiction of the parent body, but that, in connection with domestic matters, by-laws should be something for the affiliated societies' own concern. It is a simple Bill amending one section of the parent Act. The amendment is requested by the Royal Agricultural Society, and I think hon. members will consider it an entirely reasonable proposal. I move—

That the Bill be now read a second time.

Question put and passed.

Bill read a second time.

In Committee.

Bill passed through Committee without debate, reported without amendment, and the report adopted.

ANNUAL ESTIMATES, 1940-41.

In Committee of Supply.

Resumed from the 15th October; Mr. J. Hegney in the Chair.

Votes — Farmers' Debts Adjustment, £4,575; Agricultural Bank, Industries Assistance Board, Soldiers' Land Settlement, £5—agreed to.

Progress reported.

House adjourned at 10.36 p.m.

Legislative Council,

Tuesday, 22nd October, 1940.

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

ASSENT TO BILLS.

Message from the Lieut.-Governor received and read notifying assent to the following Bills.

1, Agricultural Products Act Amendment.

2, Kalgoorlie Health Authority Loan.

BILL—FEEDING STUFFS ACT AMENDMENT.

In Committee.

Resumed from the 17th October. Hon. J. Nicholson in the Chair; the Honorary Minister in charge of the Bill.

Postponed Clause 2—Amendment of Section 3:

The HONORARY MINISTER: With regard to the point raised by Mr. Mann concerning the reason for the change in the definition of the word "inspector," the Act reads—

"Inspector" means an inspector attached to the Department of Agriculture and includes any officer of that department acting as an inspector under this Act.

The Bill sets out that "inspector" shall mean "an inspector appointed under the Act." The reason for this change is to bring the definition into line with that embodied in other measures such as the Plant Diseases Act, the Dairy Products Act, the Fertilisers Act and, in fact, most of the Acts administered by the Agricultural Department. There is no intention to incur unnecessary expense in the appointment of inspectors; there are hundreds of honorary inspectors appointed throughout the State, such as policemen,