

beyond £500. The Minister in explaining this measure to the House did not give in any detail, if at all, the reason which the Law Society or its appropriate committee offered to the Government in support of its view; nor did he give the reasons which the Master of the Supreme Court advanced in support of his assessment of the situation. If the Minister is in possession of the reasons given by both those authorities I am sure some, if not all, members of this House would appreciate those reasons being given in full, in order that members might have a better understanding of the reasons which prompted the Law Society to recommend as it did, and the reasons which prompted the Master of the Supreme Court to recommend in the manner in which he did recommend.

It is of interest to learn, as the Minister told us, that of the 408 judgments made in the Supreme Court during the calendar year of 1964, no fewer than 363 were for amounts exceeding £500. From that it is clear that local courts have been issuing orders of committal in many cases where the amount of the debt involved was over £500.

Apparently that would indicate the local courts have handled this situation quite efficiently, quite capably, and quite effectively; and it might be an argument as to why the proposal in this Bill should be accepted. My inclination is to give my approval to the proposal in the Bill. However, I think we should have been given more reasons in support of the proposal; and especially should we have been given, I think, more information of the views which the appropriate committee of the Law Society advanced in support of its recommendation; and also more of the reasons which the Master of the Supreme Court must have submitted to his departmental head or to his Minister in support of the view which he advanced.

I sincerely hope and trust the Minister has information available at this stage so he can give it to us before a vote is taken on the second reading of the Bill.

MR. COURT (Nedlands—Minister for Industrial Development) [9.11 p.m.]: I thank the Leader of the Opposition for his comments and for his support. Between now and the third reading I will obtain more detailed expert information on the exact reasons for adopting the Law Society approach in preference to the suggestion of the Master of the Supreme Court. I satisfied myself on studying the papers. First of all I read the speech of The Hon. Eric Heenan who, as members know, is a practising solicitor. He referred to the measure as being well-founded, and its aim a good one. I thought that his practical experience and the fact that the measure had run the gauntlet of the Crown Law Department would be sufficient.

However, I also ascertained that the respective views of the Master of the Supreme Court and the Law Society were submitted to the Solicitor-General, who recommended, without any reservation, that the views of the Law Society be adopted. I think that was probably the reason why the Minister made this recommendation to the Government, and why it was incorporated in the Bill.

I will ascertain the technical reasons why the one approach was accepted or recommended in preference to the other; but I must admit I do not know the really technical reasons for the preferment of one.

Mr. Hawke: Thank you.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

House adjourned at 9.15 p.m.

Legislative Assembly

Wednesday, the 1st September, 1965

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QUESTIONS (20) : ON NOTICE

PROBATE: ESTATES IN EXCESS OF £20,000

Classifications

1. Mr. GRAHAM asked the Minister representing the Minister for Justice:
 - (1) During the year ended the 31st December, 1964, how many deceased persons left estates valued for probate in excess of £20,000?
 - (2) Of these, how many in total fall within the general classification of farmers, graziers, pastoralists, agriculturists, orchardists and allied designations, including where prefixed with such as "formerly", "retired", "widow of", etc.?

Mr. COURT replied:

- (1) 182.
- (2) 81.

TREES

Bitumen on Surrounding Area: Effect

2. Mr. GRAHAM asked the Minister for Forests:

What is the effect on trees where bituminising is done right up to the trunks as against leaving a small surrounding circle unpaved?

Mr. BOVELL replied:

It was considered advisable to obtain the opinion of the Forests Department, and therefore as Minister for Forests I shall give the reply. In the case of a young tree, it is considered advisable to leave a small area around the base so that the tree can be watered. With a well established older tree, bituminising up to the trunk does not appear to have any serious effect.

METROPOLITAN TRANSPORT TRUST

Affiliation with Employers Federation

3. Mr. GRAHAM asked the Minister for Transport:
 - (1) Is the Metropolitan (Perth) Transport Trust affiliated or otherwise associated with the Employers Federation?
 - (2) What amounts have been paid by the M.T.T. to the Employers Federation for each of the past three years respectively?
 - (3) What services were rendered for the payments?
 - (4) Why is it not possible for all industrial matters to be handled by the trust's own industrial officer and staff?

The SPEAKER (Mr. Hearman) took the Chair at 4.30 p.m., and read prayers.

Mr. O'CONNOR replied:

- (1) Yes.
- (2) 1963-64—£150.
1964-65—£225.
1965-66—£225.
- (3) Advice and assistance on all industrial matters and prior to 1964, representation before the Arbitration Court while our own industrial officer was being trained.
- (4) All industrial matters are now handled by the trust's own industrial officer with the assistance and guidance of the Employers Federation.

FOODSTUFFS

Handling: Decline in Hygiene

4. Dr. HENN asked the Minister representing the Minister for Health:

As it has been noticed that since the gazettal by the Government in 1961 of the regulations requiring food handlers to observe careful hygiene in this connection there has been a decline in the observance of these regulations, would he take steps to ensure the strict observance of these regulations?

Mr. ROSS HUTCHINSON replied:
Yes.

HOUSING COMMISSION LAND AT WOODLANDS

Acquisition

5. Mr. TOMS asked the Minister for Housing:

- (1) How and when was the land in the Woodlands area acquired by the State Housing Commission?

Area Acquired and Price

- (2) What area of land was bought in this district?
- (3) What was the purchase price paid?

Improvements: Amount Spent

- (4) Has any money been spent in improvements to the land in question, if so, how much?

Building Lots

- (5) How many building lots in the area concerned are for—
(a) residential;
(b) commercial?

Mr. O'NEIL replied:

- (1) By purchase on the 25th August, 1950.
- (2) The total area purchased was 318.5 acres, of which 80 acres are in the Woodlands district.
- (3) £100 per acre on a broad-acre basis.

- (4) Yes. Charges to the Woodlands holdings total to date £26,725, of which £20,725 has been incurred on improvements.
- (5) After providing approximately 35 acres from the Woodlands holdings for school, church, recreational and drainage sites, subdivisional roads as well as reserving land for a future highway—
(a) 147 residential sites—of which 64 remain to be sold under current proposals;
(b) Nil.

OMBUDSMAN

Appointment by the Albert Shire in Queensland

6. Mr. TONKIN asked the Minister for Industrial Development:

- (1) Is he aware that the first ombudsman to be appointed by a government or local authority in Australia is to be appointed in Queensland by the Albert Shire?
- (2) Would he care to express his views on the statements of the shire president that the appointment was designed to improve the council's public relations with its ratepayers to the point of complete harmony and that it was expected to reduce costs?
- (3) Does he regard the shire council's decision to appoint an ombudsman as proof of the president's claim that "The Albert Shire was generally the first to do anything progressive"?

Appointment in Western Australia

- (4) Will he give further thought to the advisability of appointing an ombudsman in this State to the end that his opposition to such an appointment may be removed?

Mr. COURT replied:

- (1) to (4) The details of the action and comments by the Albert Shire are not known to me.

From the information given in the honourable member's questions there is nothing that could materially influence the Government's attitude to the question of an ombudsman as explained when a motion was recently before the Legislative Assembly.

I would like to add that since I prepared the answer to this question I have seen a cutting from a newspaper which reports this action of the Albert Shire. More emphasis seems to be placed on the question of public relations than on the duties of the ombudsman. Nothing I have seen in the Press report would make me want to alter the answer I have given.

WATER PRICES TO SHIPS**Iron Ore and Other Overseas Vessels**

7. Mr. FLETCHER asked the Minister for Water Supplies:

- (1) What is the price of water to iron ore and other ships carting fresh water from Fremantle to Cockatoo and Koolan Islands, Yampi Sound?
- (2) What is the price to other overseas ships?

Comparison with Metropolitan Charges

- (3) Is the price paid by the shipping companies—
 - (a) the same;
 - (b) less;
 - (c) more
 than that paid by the general metropolitan community?

Mr. ROSS HUTCHINSON replied:

- (1) No water for the purpose mentioned is supplied from Fremantle. Water for transport to Cockatoo and Koolan Islands, Yampi Sound, is supplied ex B.H.P. wharf, Cockburn Sound.

The Metropolitan Water Supply, Sewerage and Drainage Board's price to the company for this water is 2s. 6d. per 1,000 gallons. The water is loaded onto vessels through the company's installation, under the control of the company's staff.

- (2) Other water for shipping purposes—

Cockburn Sound: The Metropolitan Water Supply, Sewerage and Drainage Board price to the companies supplying water for shipping—3s. per 1,000 gallons, where the water is delivered to the vessel through the company's equipment and the work of delivery of the water is carried out by the company's employees.

Fremantle: 4s 9d. per 1,000 gallons delivered onto vessels by the Metropolitan Water Supply, Sewerage and Drainage Board during normal working hours, plus prescribed overtime charges outside normal hours.

- (3) The price is more.

SCENIC TOUR: BUNBURY-ALBANY**Public Response**

8. Mr. ROWBERRY asked the Minister for Railways:

- (1) What has been the public response to the scenic tour between Bunbury and Albany and return?

Intermediate Bookings

- (2) Is it possible to book from any intermediate town on this route and return?
- (3) If so, is this generally known to would-be travellers on this route?

Publicity

- (4) What steps, if any, has the department taken to publicise the details of this tour (when available, arrival and departure times at all stations on the route, as well as termini, with fares applicable) at all stations on the tour?
- (5) If this has not already been done, will he undertake to examine the possibilities of doing so with a view to further extending the service?

Mr. COURT replied:

- (1) Average number of passengers on the King Karrie service has been Bunbury to Albany 10; Albany to Bunbury 17.
- (2) Yes, at attended stations. Passengers may also join at any point en route.
- (3) Yes.
- (4) 15,000 attractive brochures publicising full timetable, fares, etc., have been issued. In addition publicity has been given in the Press, travel publications, radio, theatres, and public timetables.
- (5) Answered by (4).

9. *This question was postponed.*

FIRE BRIGADES BOARD: LOCAL AUTHORITIES' REPRESENTATIVE**Appointee**

10. Mr. HALL asked the Chief Secretary:

- (1) Can he advise the name of the successful applicant for the position as representative of the local authorities on the W.A. Fire Brigades Board?

Applications: Numbers, Names, and Nominating Shires

- (2) How many applications were received for the position, what were their names, and from which shires were they nominated?
- (3) Were all nominations truly in accord with the Fire Brigades Act and covered under part IV of the second schedule?

Mr. CRAIG replied:

- (1) S. J. Prunster.
- (2) Three candidates.
A. W. Parry: nominated by the Town of Bunbury.

S. J. Prunster: nominated by the Shires of—

Armada-Kelmscott.
Busselton.
Collie.
Goomalling.
Katanning.
Kellerberrin.
Kwinana.
Pingelly.
York.

and the Towns of—

Geraldton and Northam.

Incomplete nominations for Mr. Prunster were also received from Brookton and Waroona Shires.

R. Smithson: nominated by the Town of Albany.

(3) Yes.

WORKERS' COMPENSATION

Medical Board: Agreement with Pneumoconiosis Committee's Definitions

11. Mr. MOIR asked the Minister representing the Minister for Health:

- (1) Will he ascertain if the medical officers who comprise the medical board constituted under the authority of section 8 (1d) of the Workers' Compensation Act agree with and act upon the definition of the terms "Pneumoconiosis," "Silicosis," and "Asbestosis" as defined on page 8 of the Pneumoconiosis Committee's report?
- (2) If they are not in agreement, would he indicate in what aspects of the definition they disagree?

Mr. ROSS HUTCHINSON replied:

- (1) The medical officers who comprise the medical board constituted under the authority of section 8 (1d) of the Workers' Compensation Act agree with and act upon the definition of the terms "Pneumoconiosis," "Silicosis," and "Asbestosis" as defined on page 8 of the Pneumoconiosis Committee's report.
- (2) See (1).

LEGISLATIVE PROGRAMME

Deadline for Submission and Number of Bills

12. Mr. JAMIESON asked the Premier:

- (1) Did he set a deadline of the 30th June for all legislation proposed to be submitted by the Government in this current session of Parliament to be approved by Cabinet?
- (2) If so, how many more Bills are to be introduced by the Government?

Electoral Bills: Inclusion

(3) Are there any Bills among these which propose to amend any of the following Acts:—

- (a) Electoral Act;
- (b) Constitution Acts Amendment Act;
- (c) Electoral Districts Act?

Mr. COURT (for Mr. Brand) replied:

(1) A request was circulated that proposed legislation should be submitted as early as possible, preferably by the 30th June.

This is not an unusual procedure by Governments.

(2) and (3) In accordance with procedure followed by this and preceding Governments, details of the remainder of the legislative programme will be made available at the appropriate time.

T.A.B. AGENCIES

Agency No. 39: Shifting to New Site

13. Mr. DAVIES asked the Minister for Police:

- (1) Is there any intention to shift T.A.B. Agency No. 39 at East Victoria Park to another site?
- (2) If so, where will the new site be?

Establishment near Hotels

- (3) Is he aware that there continues to exist considerable concern that T.A.B. agencies are placed near hotels?
- (4) Does the T.A.B. intend to continue this policy?

Mr. CRAIG replied:

- (1) No.
- (2) Answered by (1) above.
- (3) The placement of T.A.B. agencies is governed by zoning laws, and consequently in certain cases they are sited near hotels, and in particular those agencies which were previously licensed as betting shops.
- (4) It is the policy of the board to locate its agencies in places where they will be of service to those who desire to make use of the facilities offered by the board.

MOTOR VEHICLE LICENSES

Number Issued by Victoria Park Traffic Office, and Value

14. Mr. DAVIES asked the Minister for Police:

- (1) How many motor vehicle licenses (all classes, including motor cycles) were issued by the Victoria Park Police Traffic Office for the years 1962-63, 1963-64, and 1964-65?

- (2) What was the yearly value of these licenses?

Mr. CRAIG replied:

- (1) Vehicle licenses issued:—

1962-63—35,508.

1963-64—40,338.

1964-65—41,416.

- (2) Fees collected:—

1962-63—£235,213.

1963-64—£257,412.

1964-65—£265,724.

MAGISTRATES

Qualifications for Appointment

15. Mr. JAMIESON asked the Minister representing the Minister for Justice:

What categories of persons qualify for appointment as magistrates other than those who have passed their magistrate's examination?

Mr. COURT replied:

Under the provisions of section 7 of the Stipendiary Magistrates Act a person who is a barrister or solicitor entitled to practise in a State of the Commonwealth or in the High Court of Justice in England or Northern Ireland, is qualified for appointment as a stipendiary magistrate.

Under the provisions of section 19 (1) (c) (iii) of the Child Welfare Act, any person may be appointed as a special magistrate of a Children's Court.

CIVIL DEFENCE

Local Authorities Participation

16. Mr. WILLIAMS asked the Premier:

- (1) How many local authorities have been approached to participate in Civil Defence Organisation in Western Australia?
- (2) Has the response been considered favourable?

Commonwealth Grant, and Distribution to Country Centres

- (3) Is the grant from the Commonwealth Government received in cash or equipment? What has been the value of either in the last three years?
- (4) Has this been distributed to country centres? If so, how many centres have received assistance?

Macedon School: Attendance of Western Australians

- (5) How many Western Australians have attended the Macedon Commonwealth Civil Defence School?

Administration Centre, Belmont: Completion, and Effect on W.A. Position

- (6) When will work be completed on the civil defence administration centre at Belmont? What effect will this have on civil defence in W.A.?

Mr. COURT (for Mr. Brand) replied:

- (1) All local authorities in the State—a total of 144.
- (2) Yes. 125 local authorities are now participating in Civil Defence Organisation. Negotiations with the remainder are continuing.
- (3) Commonwealth assistance is in the provision of equipment, the total value over the last three years being £81,000.
- (4) Distribution of equipment to country centres is continuing. To date 72 centres have received assistance.
- (5) 885.
- (6) It is anticipated that the civil defence centre at Belmont will be completed by the 31st October, 1965.

When completed this building will provide the Civil Defence Organisation with a headquarters suitable for both training and operational purposes.

BASALT

Bunbury Area: Depths of Formations

17. Mr. WILLIAMS asked the Minister for Works:

Is it known at what depths basalt formation is found in—

- (a) Leschenault Estuary;
- (b) on the land known as Koombana Park and north-east to the "cut";
- (c) in-shore in Koombana Bay?

Mr. ROSS HUTCHINSON replied:

- (a) Yes.
- (b) Yes.
- (c) Yes.

The information is recorded on plans which may be inspected at the Public Works Department.

BUNBURY HARBOUR

"The Cut": Completion

18. Mr. WILLIAMS asked the Minister for Works:

- (1) Is the "cut" in its present form completed as envisaged in the Stevenson-Young Bunbury Harbour Plan 1946 or the F. W. Tyde-man Bunbury Harbour Proposal 1948?

- (2) If the answer to (1) is "No", what work is still required to be carried out?

Mr. ROSS HUTCHINSON replied:

- (1) The "cut" was constructed as proposed by Stevenson-Young and endorsed by Tydeman.
 (2) No further work on this "cut" is proposed.

JUSTICES OF THE PEACE

Name Plates: Supply by Government

19. Mr. BRADY asked the Premier:

- (1) To enable the general public to get the best possible service from justices of the peace, will he agree to his department paying for name plates (to be approved) being attached to residences or business houses where J.P. services are available?
 (2) If so, will early action be taken to arrange name plates?
 (3) Is he aware long distances are travelled by people seeking services of J.S.P. (in many cases unnecessarily)?

Mr. COURT (for Mr. Brand) replied:

- (1) and (2) Provision already exists for name plates to be made available by the Royal Association of Justices of Western Australia to its members at a reasonable cost. Applications received however represent only a small proportion of the association's membership. It is not considered desirable that this system should be changed to that of a free issue of name plates by the Premier's Department.
 (3) For the purpose of assisting people who desire the services of justices of the peace, copies of the Commission of the Peace are forwarded to the Postmaster-General's Department and the Police Department for display in all post offices and police stations throughout the State.

COMMISSIONERS FOR DECLARATIONS

Name Plates: Supply by Government

20. Mr. BRADY asked the Minister representing the Minister for Justice:

- (1) To enable the general public to get the best possible service from commissioners for declarations, will he agree to his department paying for name plates to be placed on residences or business premises indicating the name of the commissioner for declarations on the premises?
 (2) If so, will early action be taken to arrange the new name plates?

Mr. COURT replied:

- (1) No. It would not be a practicable proposition, because every classified officer of both State and Commonwealth Public Services, every police officer, every schoolteacher, and the other classes of persons specified in section 2 of the Declarations and Attestations Act are commissioners for declarations *ex officio*. I am not aware of any difficulty being experienced by the public in locating commissioners for declarations. Also, it is extremely doubtful whether many of such people would erect name plates if such were supplied to them.
 (2) Answered by (1).

QUESTIONS (4): WITHOUT NOTICE

BUILDING SOCIETIES

Housing Funds: Allocation

1. Mr. HALL asked the Minister for Housing:

- (1) Can he advise whether final determinations have been made with respect to the allocation of money to claimant building societies for the ensuing year, 1965-66?
 (2) If the answer to (1) is "No" when is it anticipated that a decision will be made?

Mr. O'NEIL replied:

- (1) and (2) I wish to thank the honourable member for giving me some notice of this question. In reply, I would advise the honourable member that I hope to be in a position to make an announcement on this matter towards the end of this week.

KALAMUNDA HIGH SCHOOL

Playing Field: Tabling of Papers

2. Mr. DUNN asked the Minister for Works:

Has he given any further consideration to my recent request that the file dealing with the playing field at the Kalamunda High School be tabled?

Mr. ROSS HUTCHINSON replied:

I will be pleased to let the honourable member see this file in my office any time he likes to arrange it.

HOUSING COMMISSION LAND

Sale

3. Mr. DUNN asked the Minister for Housing:

Further to the recent publicity given to the sale of land by the State Housing Commission, will he

indicate if it will be the policy of the State Housing Commission in the future to do this as a method for raising funds?

Mr. O'NEIL replied:

No; it has never been the policy of the commission to enter into land sales for the purpose of raising funds. However, for a considerable period of time, the commission has sold land to the public either as vacant blocks, or included in property, house, and building. On each occasion this land is sold at value.

HOUSING COMMISSION LAND AT WOODLANDS

Details of Holdings

4. Mr. TOMS asked the Minister for Housing:

In the answers given today to my question 5 it would appear that either only portion of the question was answered, or it was misinterpreted. I would ask if the Minister would make available the full information in regard to the land held in that particular district.

Mr. O'NEIL replied:

Since the total land holdings of the commission were 318.5 acres, it may be difficult to answer the question exactly as the honourable member would like. I interpreted his previous question as applying to the land presently for sale under current proposals. I will examine the question further and if I am able to find out what the honourable member wishes to know I will give him an answer. Otherwise, I would ask him to place a further question on the notice paper.

PLANT DISEASES ACT AMENDMENT BILL

Introduction and First Reading

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

BILLS (4): THIRD READING

1. Petroleum Products Subsidy Bill.
Bill read a third time, on motion by Mr. Craig (Chief Secretary), and transmitted to the Council.
2. Mining Act Amendment Bill.
Bill read a third time, on motion by Mr. Bovell (Minister for Lands), and passed.
3. Marketing of Eggs Act Amendment Bill.
Bill read a third time, on motion by Mr. Lewis (Minister for Education), and transmitted to the Council.

4. Stipendiary Magistrates Act Amendment Bill.

Bill read a third time, on motion by Mr. Court (Minister for Industrial Development), and passed.

DEBTORS ACT AMENDMENT BILL

Third Reading

MR. COURT (Nedlands—Minister for Industrial Development) [4.53 p.m.]: I move—

That the Bill be now read a third time.

I would like to convey some information I promised to obtain for the Leader of the Opposition. I found that it was the Minister's original intention to limit the jurisdiction to £500, but on inquiry he found that of the 408 judgments made in the Supreme Court in the year ended the 31st December, 1964, only 45 were for amounts under £500. Therefore, as the proposed amendment would have so little real effect on the overall position, he decided after consultation to give further consideration to the proposal by the Law Society that there should be no ceiling placed upon the jurisdiction from a monetary point of view. In this the Solicitor-General concurred after studying the proposals of both the Law Society and the Master of the Supreme Court.

Another point of considerable importance was the fact that the costs which may be incurred on the issue of the summons returnable before a judge in the Supreme Court are many times greater than those from a judgment summons in the local court; and as it was considered that there was no danger in allowing this ceiling to be taken off it was decided to proceed on this basis.

Question put and passed.

Bill read a third time and passed.

HAIRDRESSERS REGISTRATION ACT AMENDMENT BILL

Report

Report of Committee adopted.

GASCOYNE RIVER: DAMMING

Motion

Debate resumed, from the 18th August, on the following motion by Mr. Norton:—

That the damming of the Gascoyne River for the stabilising, developing, and expanding of intensive agriculture on the Gascoyne Delta and along the Gascoyne River is of such State and national importance as to require urgent action by the State Government to proceed at an early date with the construction of the necessary head works.

MR. COURT (Nedlands—Minister for the North-West) [5.56 p.m.] : Members will have noticed that there is an amendment on the notice paper standing in my name referring to this particular motion, and I will move it at the end of my comments on the motion and the remarks that the honourable member made when he introduced it. However, by way of explanation, I would like to invite the attention of members to the fact that the reference on the notice paper to the Gascoyne River is to the second mention of the Gascoyne River in the motion and not to where it first appears.

It is wrong to give the impression that the State Government has not taken positive action in efforts to protect the existing producers at Carnarvon and also to seek ways and means of expanding production. The problems of the Gascoyne River, and the Carnarvon growers in particular, are not new, although some people endeavour to give this impression. If one goes to the area for the first time it might be thought that the problems are of recent origin. In point of fact they go back a long way.

It is, however, reasonable to say that very positive action has been taken over the last six years—and I think more positive action than at any previous time—to protect the interests of the growers who are at present established in the Carnarvon area on the delta of the Gascoyne River.

A few brief comments regarding the early history of this river and its settlement are pertinent at this point of time. It is easy, of course, for anyone coming at this comparatively late period to have hindsight. We have so many people with hindsight that it is exasperating. There are people who would say that if we had done this and that many years ago the Gascoyne settlement would be much greater than it is today; and, of course, this is true.

However, rather than be critical of the people who established this project and who were responsible for its administration in the earlier years, I feel we should praise their courage, initiative, and knowledge in starting something. Too few people get credit for starting something. They usually receive criticism for what they do.

It is true that if everyone had known as much then as now about the peculiarities of this type of river, an entirely different technique of water control would have been adopted many years ago. The area has not been without its difficulties. These are some of the difficulties that are inseparable to a large extent from such a project, but in this case a lot had to be achieved through hard, cold experience. Expressed in another way a lot had to be achieved, to a large extent, through trial and error.

As is customary in these circumstances a lot of the burden of pioneering, and the financial loss and disappointments in the

early stages of the scheme, fell upon the first farmers, who received some setbacks which, with the knowledge possessed today both in agriculture and on the engineering side, would probably not have occurred.

This knowledge which has been gained from experience on the Gascoyne River delta will be invaluable in other projects which we hope to see developed further north in the north-west of our State. I emphasise the north-west of our State as distinct from rivers in the Kimberleys where characteristics of climate and geography are so different from those of the north-west.

However, the experience gained on the Gascoyne delta will be of tremendous value. Not only has there been greater knowledge accumulated throughout the world and other parts of Australia on this type of river, but the practical experience that has been gained on the Gascoyne delta can be applied by those who will be responsible for other river development further north to avoid some of the problems that we experience on the Gascoyne.

I have great hopes that in the not too far distant future we will be able to step up our research on some of those other rivers in the north; that is, rivers in the north-west of the State as distinct from those in the Kimberleys where the problems are entirely different from the problems of the rivers in the Gascoyne, Ashburton, and Pilbara areas. Some of those rivers have characteristics such as those of the Gascoyne River, which is not always predictable in its flow. Those northern rivers, likewise, are quite unpredictable, but when they do flow a tremendous volume of water goes into the sea.

In the next few years we expect a considerable build-up in population in the Ashburton and Pilbara areas not only as a result of the mining of iron ore and other minerals, but also because of the programmes of some of the companies which are stepping up their processing operations beyond the requirements in the several agreements. Also, there is an expanding demand for water by industry, now more predictable than before, in respect of industrial purposes and this will accelerate the research into the characteristics of these rivers. I am referring again to the rivers north of the Gascoyne.

Research will be carried out on the use and conservation of the water of those rivers, and once we can conserve that water it will be of value both for agriculture and for industry, as well as for the normal living requirements of a community. In other words, as a result of this general development which is going to take place, we can safely predict that

in the next few years not only will research be stepped up, but practical results will be achieved therefrom.

For instance it is only at this point of time that serious research has been called for to see how the waters of the Fortescue can be better controlled with the object of getting the maximum use not only for the development of a community, but for industrial purposes.

These matters have been the subject of discussion with the northern division of the Commonwealth Department of National Development and have been put forward, amongst other things, as suitable subjects for research by that division in conjunction with the Governments of Western Australia and Queensland. The Gascoyne River, likewise, has been put forward as such a subject. However, it is not my intention to delay the House further on the question of rivers other than the Gascoyne, but I think it pertinent to comment on the fact that experience gained on the Gascoyne delta will be invaluable to the work which lies ahead on some of the other rivers which have to be considered in the next few years.

The project for the greater development and the greater security of agriculture on the Gascoyne has been placed before the Commonwealth on more than one occasion as a project to be considered and as one meriting inclusion in the programme of northern development. However, the Commonwealth has not been prepared to accept it as a specific project, and it requires more information on this particular point. This is not unexpected, of course, because there is a much larger sum involved than was previously thought likely. Furthermore, there is a lot more technical information necessary before we can, with confidence, put forward a soundly-based economic case.

We have seen the difficulties that have confronted the Government in trying to reach finality over the Ord. This project has been, for the moment, deferred pending further information which we feel is now available as a result of the 1965 harvest. When this information is collated I think we will have a very convincing case to put to the Commonwealth.

I want to make one observation at this point, and that is in regard to the tendency of some people in the Gascoyne district to try to achieve their object with the Gascoyne River by casting some doubts on the Ord project. I want to say in all sincerity that they will get nowhere doing this sort of thing. One does not get a project to the fore by damning another.

We have a very unfortunate experience with the Namoi people. Those people—some or them—are indulging in quite a highly organised campaign which is intended to push their scheme to the fore

in the public mind and, presumably, in the mind of the Commonwealth Government, to the detriment of the Ord. This, of course, does not get them anywhere. Damning someone else's project does not bring their own into repute; but surely it casts a doubt on all similar projects.

There is a great necessity for all people associated with northern projects to work for northern development. It may not be quite what one person or one group would like, but I am firmly of the opinion that if northern people come forward strongly behind any desirable project in the north the overall development will be greater as a result of the collective enthusiasm and support of those people. All projects will in turn be supported at the proper level.

I have found, on this particular point, that those who are against northern development—and there are quite a few—are very anxious to seize on the criticisms of one northern project area against another. This is another version of the old system of "divide and conquer." If a group is wrangling within itself it helps those outside to throw this up as argument to defer, or to throw doubt on, all the projects.

We want to put forward the Gascoyne River project on a positive basis, not because it is better or worse than any other scheme, but because we are positive it will stand on its own feet. As a result of efforts in the past we have come to the conclusion that a lot more research will be necessary and will have to be undertaken both on the engineering side and on the agricultural side. There is one grave danger on the agricultural side: namely, that too much significance can be placed on research station experience. The honourable member quoted some figures; and it is important when considering them to realise that the research station is a comparatively small place. We have found with other research stations, and particularly with the Kimberley research station, that it is very undesirable—sometimes quite dangerous—to place too much importance on the result one achieves in a comparatively small area. This does not mean to say that with proper skill and care those experiences cannot be carried into larger areas.

We know from experience that research practice cannot be carried on the commercial farm completely. The object of most practical people is to achieve approximately two-thirds of the research results under commercial conditions. This is a very good performance and we have seen it, for instance, in the Ord scheme itself.

I have some information for members regarding the irrigation side—the engineering side—of the Carnarvon development. As a result of representations made by the growers, and discussions that took place with the Government in December, 1959, when prospects in the area looked fairly black, the Government introduced control

measures to limit the rate of pumping from the Gascoyne River sands. I think most members know the Gascoyne area and know, too, that on most occasions when one goes there no water is to be seen in the river, but there is the very valuable aquifer in the delta sands. It is from this great underground reservoir that water for the irrigation project is taken.

The need for the application of controls had arisen out of the fact that the existing supply of water in the sands was limited, and over-pumping at certain points in the past had been accompanied by serious increases in salinity. This is part of the lesson that I referred to earlier that has been learned from the cold hard experience of the earlier settlers on the Gascoyne delta. In the history of the district the salinity problem was responsible for the abandonment of plantation lands, and other areas were encountering an increasing problem for the same reason.

The rate of water usage prior to controls being introduced was 35,000,000 to 40,000,000 gallons weekly; and there is no doubt that there was a great deal of extravagant use of water in many cases, and very little care exercised in others. The irrigation channels, for instance, were not engineeringly sound and would not allow the maximum benefit to be obtained from the water being pumped, and there was no great desire for improvements. Approximately 30 per cent. was being pumped from the top river sands at depths up to 20 feet; the balance was being obtained from the secondary aquifer normally encountered at depths of 40 feet to 80 feet below the river bed. At the time of implementing controls, more than 18 months had elapsed since the last "run" of the river.

This is a significant figure, because the people advising on the introduction of controls had to tell the Government what figure they thought should be used as the reasonably expected maximum period between flows. I think they eventually decided on a figure of some 21 months, although since that time that has not been the experience. There have been many very valuable flows of the river since then; however, the advisers had to recommend a figure which would be realistic and they came down in favour of a period of 21 months. This was based on careful consideration of past experience; but, nevertheless, it was an estimate.

Although the top sands are readily replenished with a "run" of the river, the secondary aquifer is not readily replenished, and it is in this lower level of water that salting has taken place when heavy pumping has continued. Departmental recommendations to meet the situation were made in 1959 and consisted of—

- (a) Controlling settlers' farming activities by limiting their use of water from the river sands.

- (b) Considering the development of additional sources of supply in upstream river areas to supplement the over-exploited lower reaches of the river.

- (c) Investigating the possibility of storing water at an upstream dam-site to provide the district with a stable water supply and enable district expansion to take place at a later stage.

In February, 1961, a report on the area was obtained from consulting engineers Messrs. Scott & Furphy, an Australian firm. That report confirms the ideas of, and the advice given to, the Government previously by departmental officers. It was departmental officers who recommended the appointment of this outside firm to confirm their own views, because there was considerable local argument whether the methods proposed by the department would in fact achieve the results hoped for.

An advisory committee was constituted at the end of 1959 to implement the necessary controls. Three growers' representatives and three departmental officers were appointed. The basic pattern of control envisaged a drought season every three or four years, and from a study of the available water and salinity trends it was determined that the maximum draw from the sands should not exceed the average figure of 20,000,000 gallons per week throughout the year.

Members will recollect that earlier I referred to the fact that before the controls were determined and applied, the river had not flowed for 18 months and growers were using something like 35,000,000 to 40,000,000 gallons per week. So it is quite easy to realise that when these rather severe controls were imposed, bearing in mind the advice of the engineers as to the infrequency that could be expected in regard to river flows, there was some resistance from certain growers. In the main they accepted the restrictions with good grace, as they considered them necessary in their own interests and security; however, there were others, more militant, who caused some trouble. There was a difference of opinion among the growers, and this brought about some of the difficulties as between those settlers who wanted to conform and agree to the water control system and those who did not.

However, for each property with a river frontage, irrespective of its area, the formula for water allocation was as follows:—

- (a) A reasonable living for a family working a property. A proportionate increase was allowed for each additional family unit jointly owning and working the property at the time of control.

(b) Increased water allowances when river conditions permitted. Capital valuations of properties were taken into account in the allocation of such increase.

(c) Anomalies were to be met by special consideration of the particular circumstances.

I believe that the advisory committee had done as well as it could reasonably be expected to do. Its members had regard for the basic needs of the families on the properties concerned, and they also had regard for those who had been more enterprising and had invested more real capital in the development of their properties. They also made provision to meet anomalies where there were special circumstances.

The earlier control action related to growers who pumped supplies from the bed sands of the Gascoyne River. It was realised that the Minister did not have similar control over persons who pumped from wells or bores located within their own properties. In other words, he had control over people pumping from the river bed, but those who were able to pump water on their own properties were outside his statutory powers. To overcome this anomaly legislation was introduced in 1962 whereby the proclamation of an area at Carnarvon was made possible and control measures over all settlers became effective.

In view of the figures I have quoted about the difference in the amount of water being pumped before the introduction of controls, and the amount of water provided by the controls, it is of interest to see the results on agriculture since the controls were instituted. The figures show that the controls, rather than being a deterrent to the prosperity of the growers, have in fact been instrumental in introducing greater efficiency and a better use of water; and in this regard it is an object lesson because production increased considerably during the period of control. The figures, for the year ended March, 1961, show that 7,506 bushels of bananas were produced. I should mention, too, that that production was badly depressed by cyclones in the 1960-61 year.

The previous peak production—and I emphasise this—without any control was 107,896 bushels in 1959-60. In the following year; that is, in March, 1962, the production of bananas rose to 48,027 bushels, and by March, 1964, it passed the previous peak figure by rising to 140,603 bushels. There have been a series of very good river flows. The danger that had previously been envisaged of no flow for 21 months was not realised, and yet the advisory committee's figures were sound having regard to all the circumstances.

The production figures for beans in hundredweights were as follows:—

Year Ended	Cwt.
March 61	47,459
March 62	51,650
March 64	53,533

This trend of increased production is reflected in the production of all other products, the figures being as follows:—

Year Ended	Pumpkins	To-matoes	Cucumbers	Rock Melons	Water Melons
	Cwt.	Half Bushels	Doz.	Doz.	Doz.
March, 1961	10,835	52,890	49,620	20,060	60
March, 1962	19,580	74,000	59,182	20,020	329
March, 1964	18,385	78,908	75,340	29,844	1,784

In 1959-60, the banana acreage was 323 acres, and the acreage under vegetables was 563 acres—a total of 886 acres—and the remarkable feature is that in 1963-64, after these controls had been instituted for this period, the acreage under banana production had risen to 338 acres, and the acreage under vegetable production had increased nearly double to 1,262 acres approximately, or a total of 1,600 acres. During 1964-65, the plantations drew a total of 3,700 acre-feet, or 1,202 m.g. from the aquifers.

Another interesting feature is that during this period the population of Carnarvon had quite an impressive growth. In June, 1954, the population of the Carnarvon township was 1,457, and this jumped to 2,050 by June, 1964. The Gascoyne-Minilya Shire did not have such a large increase in population. The development of the various projects that had been commenced within the Carnarvon township itself all helped to increase the population. Nevertheless, it is quite a spectacular rise in population of what was previously a fairly small town, but which is now enjoying the greatest prosperity it has ever enjoyed partly because of the superimposing of the tracking station on the normal activities in the district.

Mr. Fletcher: And the fishing industry.

Mr. COURT: That has made its contribution. The general stability and prosperity of Carnarvon is stronger today than ever before. One has only to go there and see the development taking place to realise this. Also, in the total scheme of things, the town has another significance. It is on the route from Perth northwards and it is a very convenient staging point from Geraldton for all those travelling north to the V.L.F. base and other northern projects. Some firms have been quick to realise this and they are increasing their investments in Carnarvon as the town is virtually a staging point in the northern transport system. The Minister for Education has just advised that there will be a three-year high school built there next year.

Mr. Hawke: Does that come into the motion?

Mr. COURT: It is all part of the general development of the town. It may not have been the intention of the member for Gascoyne, but, unwittingly, he may have been giving us the impression that Carnarvon is not prospering as much as it is.

Mr. Bovell: The Government is worthy of some credit, too.

Mr. Hawke: Does that come under this motion?

Mr. Bovell: Yes.

Mr. COURT: In addition to exercising control measures to obtain the best use of the water that is available, the Government constructed a pilot scheme at a cost of £90,000. Some local people criticised the Government's action on the basis of whether this amount was justified at that time for a small number of settlers; but the Government considered it was and it was established to give greater security to 33 growers on the south bank of the river and at the eastern end of the plantations.

During 1964-65, the scheme supplied 220 acre-feet to 21 properties, and has shown itself capable of supplying the basic allocation to the properties concerned. By bringing this extra water into the whole scheme it took a burden off other parts of the area, and it gave security to people who, at one time, were very concerned about their future. Investigations have been carried out which have proved the existence of further upstream sources of supply and plans have been prepared to extend the pilot scheme to serve 50 properties on the south bank. The cost of these extensions was estimated at £185,000 in 1963. This, of course, is only a means of giving greater security to existing farmers and not for any greater expansion of the number of properties and the total volume of production.

Investigations have been made into possible dam sites in the catchment of the Gascoyne River and three possible sites have been located. One is the Kennedy Range site, the second is the Lyons River site, and the third is the Chalby-Chalby site. More detailed investigations have continued on the Kennedy Range site and the position at present is that it is physically possible for a dam to be built to store 850,000 acre-feet from which the annual draw would be of the order of 120,000 acre-feet. I should mention at this point that the evaporation rate in this area is very high and, of necessity, a dam of this type has to have a very large holding capacity to give an assured supply for a certain acreage. That is why the two figures may be out of proportion when compared with other irrigation schemes.

The estimated cost of this Kennedy Range project is between £5,000,000 and £6,000,000. Previously it was considered that it might be possible to put the dam

in the Kennedy Range for about £1,750,000, but later estimates by the engineers indicated that the project would cost about £6,000,000, and they have made it clear that this is not the final estimate but the best they can do at present based on the amount of drilling and exploratory work that has been done. There is no doubt that the site is complicated geologically by the outcropping of aquifers close to the location of the proposed dam.

It is interesting to note that the structure will be $1\frac{1}{2}$ miles long, and another complication is that pervious sands many feet thick exist in the river bed. In other words, the engineers have to make sure that they can hold and command the water and do not, in effect, build the equivalent of a mighty big bath without a plug. For this reason much more drilling is being done to determine more exactly the actual nature of the foundation material in the river bed and also the material on the river banks, because this information is vital in any dam proposal.

Investigations into the salinity of the stored water indicate that the salinity of the water released for irrigation would vary between 200 p.p.m. and 250 p.p.m. NaCl. Most of the water used for irrigation at Carnarvon at present has salinities of this order. I would also point out that most of the agricultural products grown at Carnarvon are very sensitive to salinity. Soil surveys have been made in the area by the C.S.I.R.O. and these show that there are approximately 25,000 acres of soils similar to those being irrigated at present.

This figure is subject to detailed survey and confirmation. In this regard discussions are being held between the officers of the Public Works Department and the Department of Agriculture on the likely effect of the long-term irrigation of the soils with water of the above quality in an arid climate. Finality has not yet been reached although progress has been made. If the construction of the Kennedy Range Dam proves feasible from an engineering and an economic point of view it is considered that 25,000 acres of known irrigable soils are adequate to utilise all the water available from the dam after allowing for losses in the river and channel system.

Twenty-five thousand acres of irrigation is, of course, a sizeable project. Although not of huge dimensions it nevertheless is a reasonably sized project, provided the engineering side and the provision of water supplies can be undertaken at a reasonable cost. All these factors have to be assessed. In their economic appraisal Messrs. Nalson and Parker estimate that by 1975, with security of water supply, the acreage under bananas could rise to 1,400 acres—at present it is 385 acres—and that under vegetables, to 2,200 acres. There were 1,262 acres grown in 1963-64.

There is, estimated by these gentlemen, a scope for the growing of long staple cotton—a special type of cotton for which there is a limited demand by Australian spinners. This, of course, would not be in conflict with the type of cotton that has been produced at the Ord scheme. Messrs. Nalson and Parker considered this to be the minimum economic area for a gin. In addition, of course, there are hopes for crops such as citrus crops, tropical fruits, and possibly dates. I think the honourable member, when moving his motion, referred to these facts.

For the crops and acreages I have outlined the gross value of the increased production which would be achieved if a dam were built would be of the order of £2,000,000 per annum. I mention this purely as a statistical figure put forward by the people considering this project. It is a tentative figure and not one they would regard as being attainable; because so much depends on agricultural and engineering research, and particularly soil research. This research is proceeding. In the past portions of the catchment area of the Gascoyne River have been denuded in a number of cases by overstocking, and they are eroding and giving rise to increasing flood flows in the river.

An expert committee was appointed to study this problem in 1961, and that committee is of the opinion that it will take something like £200,000 spread over 10 years to regenerate the vegetation. The report of the committee is currently under consideration to see how this can best be handled.

It would be quite interesting to know—if one could ever find out—what would have been the maximum potential from the existing water; that is, the original delta aquifer of the Gascoyne River; but, of course, in view of the experience over past years and the over-pumping of this area, and because of the deterioration of the aquifer, we will never know. This is one of the lessons that has been learnt.

I think it is axiomatic that had this water been controlled many years ago in the delta the production from the river itself without any major dam would have been at least three or four times greater than the present production being achieved. It only highlights the importance of making the maximum use of practical and scientific knowledge that has been gained from past experience on the Gascoyne River.

Mr. Brady: Can the Minister say whether the oil companies have been encouraged to harness the waters they strike?

Mr. COURT: I am not able to give that information, though I know it must be made available to the Mines Department. Anything I said would only be a guess. I have heard of some properties that have profited as a result of the operations of the

drilling companies; they have got the benefit of considerable water. But this is only hearsay information, and I do not advance it as an official statement of the position.

I come back to the question of the river flow at the Gascoyne, and the controls that have been administered over the years. When one goes to the district, now that it has had a series of very pleasant and satisfying flows, one hears a lot of criticism of the people who impose the controls. I want to say a word in defence of these gentlemen. There are three growers' representatives, and three departmental officers. They met long and often and arrived at a reasonable basis having regard to the factors which they must consider; for example, the people living on the properties, the families, investment, and other circumstances.

One point it is not possible to get across in this area in trying to defend these water controls is the fact that no-one in that area, or anywhere else for that matter, can predict exactly when the next flow will take place. There have been a series of very satisfying flows, and if these could be kept up, the people could be given greater acreages and a bigger water allowance for farming. But this might be the last flow; and it would not be the last time that there has been a break of 20 or 21 months between flows.

Accordingly the people administering these controls must be defended, because their job is to judge what figure is to be employed in exercising these controls. They have shown a degree of flexibility when there has been a flood of the river on frequent occasions. But here again they get into trouble because they have allowed somebody to go ahead and plant a greater acreage of vegetables with a greater water allowance.

Should the next flow not arrive, the people who control the water and who allow this extra water to be used are the ones who will get criticised.

Mr. Graham: You seem to have had a change of heart since the summer of 1958-59 when water restrictions were imposed in the metropolitan area.

Mr. Bovell: They were also imposed at Carnarvon at that time.

Mr. COURT: I am trying to work out the analogy between the Carnarvon situation and the controls over water in the metropolitan area.

Mr. Graham: You talk about the respect for opinions of highly-placed public servants.

Mr. Bovell: The first deputation I received was about the state of the Carnarvon waters, which were in a chaotic condition during the regime of the Labor Government.

Mr. Graham: I think the Minister for Lands should be complimented on his second reading speech.

Mr. Fletcher: We cannot hear him.

Mr. Bovell: You do not know what you are missing.

Mr. COURT: I cannot recall ever entering into any public criticism of the officers who impose water restrictions. I cannot ever remember criticising their judgment. I might have criticised the Government of the day for not having enough foresight to provide sufficient water.

Mr. Graham: It is a long time since the Liberal Government established a public water supply.

Mr. COURT: I do not think we have done too badly.

Mr. Hawke: Has the Minister any figures of evaporation in connection with existing storage?

Mr. COURT: I was told in 1959, when this matter was under considerable public debate, that the evaporation rate from a dam was 15 feet per annum, but the engineers say this is not correct; that it is something in the nature of eight, nine or 10 feet; and this would be a maximum. However, it does mean that when a dam of this type is planned those concerned have to plan not only to meet the annual requirements of water assessed to the permitted growers, but also to provide for the evaporation rate. On top of that they also have to make provision in case there might be two growing seasons when the river does not flow. Therefore the evaporation rate becomes somewhat of a compounding factor.

I want to emphasise that it is the Government's objective to arrive at a basis whereby the water of the Gascoyne River can be put to better use. We will proceed with an extension of the pilot scheme in due course; but we acknowledge this will only give security to existing growers, and is not intended to be any great extension of the present acreage that is put under vegetables and bananas. Therefore it is acknowledged that, if there is to be any major expansion of production in these areas which are considered to be suitable for irrigated agriculture, the water supply will have to come from a major scheme, such as the building of a dam.

We are very conscious, of course, of the engineering problems which have been pointed out to us, but this has not stopped the Government from pressing on with its research into the matter; nor has it stopped us from discussing this matter with the northern division of the Commonwealth Department of National Development to ensure that the Commonwealth authorities are aware of our aspirations in respect of the Gascoyne River, and of the aspirations of the local people.

I am in full agreement, and in sympathy, with the desire of the local people to bring about the harnessing of the waters of this river, if it is practicable to do so on an economic basis; but this is a project which has to be researched thoroughly and proved thoroughly. After that we have to find the financial wherewithal to proceed with the scheme.

The motion of the honourable member states in the last part—

and expanding of intensive agriculture on the Gascoyne Delta and along the Gascoyne River is of such State and national importance as to require urgent action by the State Government to proceed at an early date with the construction of the necessary head works.

If the House passes such a motion it will only be a pious move, because there is not the sort of money available to undertake that project. Obviously when it is undertaken it will have to be with funds we receive at the national level; because, with the pressure on loan funds for a host of inescapable expenditures over the next few years, I cannot see that it is possible for the Government to commit £5,000,000 to £6,000,000 for this dam project. Of course this project will not end with the head works and the associated engineering works; very much more associated activity and development will have to take place. For this reason the Government considers that rather than oppose the motion it should be amended.

Amendment to Motion

I therefore move an amendment—

That all words after the words "Gascoyne River" in line 5 down to and including the word "works" in line 9 be deleted with a view to substituting the following words:—

may be feasible and the State Government is requested to continue the research into both the engineering and agricultural problems and potential in conjunction with the Northern Division of the Commonwealth Department of National Development; and make further approaches to the Commonwealth Government for any proposal proved desirable to be accepted as a Commonwealth-State Northern Development project.

This is in conformity with something that is practicable; something that is intended by the Government; and something that has, in fact, been commenced. It was only on Friday last that this project, amongst others, was under discussion in Canberra, when the intention and the desire of the State Government were made known, in respect not only of the Gascoyne River, but also some other rivers in the north-west.

Mr. Graham: How much confidence have you in the northern division of the Department of National Development?

Mr. COURT: In answer to that interjection, I think this organisation will settle down and achieve practical results. It has to be given time to establish itself, and it has been accumulating the required staff. We have to show some necessary patience in the meantime. The northern division of the Commonwealth department has reached the stage of being able to recruit some very desirable officers to its staff. The meeting on Friday last was, I think, the most successful meeting the State Government has had with the Commonwealth on the general question of northern development.

The co-ordinating officers—the head of the northern division of the Commonwealth department, the Director of Engineering for the Western Australian Government, and the Director of Works for the Queensland Government—will meet again in October to collate the work that has been done to date and the types of projects which should be considered for an overall programme. The Ministers will meet before next Christmas to consider further those submissions. This is the start on the first really comprehensive, constructive, and practical programme for northern development, so that the Commonwealth and State Governments will know what they are trying to achieve in this field.

If the amendment which I have moved is adopted it will satisfy the people of Carnarvon that the right thing is being done; and those who have followed this matter closely and in an objective way will understand that the Government has been doing something, and is seeking to develop new sources of water so that the scheme can not only be protected at its present level, but also expanded if ways can be found.

Debate (on amendment to the motion) adjourned, on motion by Mr. Davies.

WESTERN AUSTRALIAN MARINE ACT

Disallowance of Regulation 102: Motion—Defeated

Debate resumed, from the 18th August, on the following motion by Mr. Fletcher:—

That new regulation 102, made under the Marine Act, 1948-1962, published in the *Government Gazette* (No. 29) of the 23rd March, 1965, and laid upon the Table of the House on the 3rd August, 1965, be and is hereby disallowed.

MR. ROSS HUTCHINSON (Cottesloe—Minister for Works) [5.48 p.m.]: The Government opposes the motion that has been moved by the member for Fremantle, and opposes it very strongly indeed. I will

give the reasons for this opposition as I proceed. When the agreements for the sale of iron ore from the north-west to Japan were negotiated, and preparations were commenced for the upgrading of ports and the construction of new ports, it soon became apparent that the provisions of the Western Australian Marine Act—if they were to be strictly applied—would result in the iron ore operations in some instances being very considerably delayed; in other instances stopped altogether; and again in other instances not getting off the ground at all.

Mr. Rowberry: They would be under water.

Mr. ROSS HUTCHINSON: As there was a deadline in those agreements this, of course, could not possibly be permitted; and consequently, under instructions, the Crown Law Department drew up regulation 102 to facilitate these north-west developmental works. The regulation under consideration was referred to as dangerous by the member for Fremantle, but I would like to know to whom it is dangerous.

Mr. Fletcher: The deputation told you.

Mr. ROSS HUTCHINSON: The honourable member told me about this in his introductory speech a fortnight ago.

Mr. Fletcher: So did the deputation.

Mr. ROSS HUTCHINSON: It is interesting to note that this so-called dangerous regulation 102 is practically the same word for word as the amending Bill No. 62 of 1952, cited as the Western Australian Marine Act Amendment Act, 1952, which gave the department exactly the same powers as the present regulation 102 purports to do. It is these powers which appear to have aroused such a furore in the minds of some members of the Opposition. I cannot believe it has raised such tremendous doubts in the minds of all members of the Opposition.

The fears that this power, which is admittedly a wide power, will be misused, are completely unfounded. This power is being used, as I said previously, to make possible and practical the development works associated with iron ore projects in the north-west. I say again that it is very doubtful whether a number of these works could have begun if regulation 102 had not been drawn and written into our law. As a matter of fact, it is rather difficult to understand the sudden upsurge of feeling about this and the accusations that this legislation will be used to the detriment of those associated with the sea.

It might be pertinent to ask why the Merchant Service Guild and the Seamen's Union have taken 13 years to wake up to the fact that this power is there; and it is more difficult indeed to understand the statement made by the member for Fremantle that this legislation could place

inexperienced men on board ships and experienced men ashore. Neither the Government nor the Harbour and Light Department has abused the powers granted by this legislation, and neither has any intention of abusing the power in this regulation. When the necessity for the regulation is ended, it will be repealed.

Mr. Graham: Why?

Mr. ROSS HUTCHINSON: Because there will be no necessity for it. I repeat: When the necessity for this regulation no longer exists we will not want the great powers which are in use at the moment to facilitate the works.

Mr. Graham: But if there is nothing wrong with the present regulation, why repeal it?

Mr. ROSS HUTCHINSON: Because there will be no necessity for it. It can be reintroduced by any Government—maybe at some dim and distant date in the future by a Government in which the honourable member might be interested.

Mr. Graham: Why dim and distant?

Mr. ROSS HUTCHINSON: I would say there is no blanket or umbrella exemption by this regulation as was intimated by the member for Fremantle; but each of the companies concerned has had to make application on each occasion and produce current seaworthy and equipment certificates with its application.

I do not really think the honourable member knew all of the factors surrounding this matter; and the mere sighting of such certificates—as I have mentioned—was not regarded as being sufficient, as suggested by either the member for Fremantle or by the Deputy Leader of the Opposition in the—

Mr. Tonkin: I haven't spoken to the question yet.

Mr. ROSS HUTCHINSON: —related matter of his proposed amendment to the marine Act. The surveyors of the department have visited every craft for which application for exemption was made; and the surveyors have seen these vessels at work.

Mr. Tonkin: They have examined the gear?

Mr. ROSS HUTCHINSON: Yes; they have. I have already told the Deputy Leader of the Opposition, and I repeat for his information: These certificates were not merely sighted, but each vessel was visited by a surveyor. As a matter of fact, the Manager of the Harbour and Light Department has, himself, been on most of the vessels and the surveyors have seen these ships or floating workshops. In the case of some, they have seen them at work.

In so far as construction plant is concerned, only three exemptions have been granted. I refer to the floating construction plant. These are the dredge *Alameda*, the derrick barge dredge *Western Eagle*, and the floating workshop *Western Pueblo*.

All other floating plant such as tugs, launches, and barges have had to conform to the requirements of the marine Act. They have been surveyed and carry seaworthy certificates, and are manned in accordance with the Act.

For the information of the Deputy Leader of the Opposition, and particularly for the member for Fremantle, two vessels—one at King Bay and one at Exmouth—have been condemned, and certificates refused, and their use forbidden until repaired to the satisfaction of the department, because it was felt by the department that these two vessels were dangerous. It is plain foolishness—at this stage I will not give a harsher description—for this regulation to be described as it was by the member for Fremantle.

Mr. Curran: Why was this Act so necessary before?

Mr. ROSS HUTCHINSON: It was introduced in 1952 to facilitate the work of dredging the Success and Parmelia Banks by a Dutch firm. I return to my reply to the member for Fremantle. The only exemptions for trading along the coast—I was referring a moment ago to construction plant—which were granted are as follows:—

M.V. *Lis Frellsen*—a Danish ship. Current certificates issued by the Danish Bureau of Shipping.

M.V. *Tanais*—Greek. Current certificates issued by Lloyds.

M.V. *Mariko*—Norwegian. Current certificates issued by Lloyds.

M.V. *Slamet Sepuluh*—Norwegian. Current certificates issued by Norwegian Veritas.

Many comments have been passed by persons claiming to be informed on this subject about the efficiency of certificates issued outside Australia; and too many slighting references have been made to the overseas certificates. It should be known to members, and particularly to the member for Fremantle, that Lloyds, the American Bureau of Shipping, and the Norwegian Veritas have equal standing throughout the world and are accepted as topline authorities. Their standards are certainly no lower than the certified standards that are maintained or set in Australia. Adverse comment has been made about the *Western Pueblo*, which certainly carries the Liberian flag. There is no attempt to deny that, and the flag is referred to as the flag of convenience. It has been overlooked, very conveniently, that the vessel holds current certificates issued by the American Bureau of Shipping.

People, like the member for Fremantle, who tend to make wild statements should check on these things before making them. Incidentally, as I think I have said, *Western Pueblo* is not trading on the coast. It is anchored in King Bay for most of the

time as a floating workshop for the maintenance and repair of all floating craft. She did make one trip to Fremantle—this is perfectly true, and she may do so again—for repairs to her 70-ton crane, but this crane was not broken while endeavouring to lift a load of 82 tons, which I think was the figure mentioned by the honourable member. It was not broken in this way at all.

I have discovered that it was broken by the derrick being topped up and then the automatic cut-out failed as it was being topped up, and the derrick went over backwards. This was an accident, and accidents can happen in the best regulated circles. The crane has since been repaired to the satisfaction of departmental surveyors. And whose departmental surveyors are they? The surveyors of the Harbour and Light Department.

What more could the honourable member want than that? The fact that these vessels are working in north-west waters and assisting in the development of Western Australia is surely a good thing; and when repairs which they cannot do themselves must be effected, is it not a good thing for our work force in Fremantle that they should come down and be repaired in Fremantle? It would be an excellent thing if we had greater repair facilities—if we had docking facilities and slips which were capable of catering for much greater sized ships.

Mr. Fletcher: I have no objection to that.

Mr. ROSS HUTCHINSON: This is something which is being attended to and progress is being made.

Mr. Fletcher: More and more repairs for Fremantle; hear, hear!

Mr. ROSS HUTCHINSON: Statements have also been made about the manning of these vessels. They are officered and crewed by their permanent crew and the manning scale is higher than that set out under the marine Act.

At this juncture I would like to point out that these projects in the north-west are tremendous. They are really gigantic, and in order to get them going it was necessary to call tenders throughout the world. No Australian firm could have done this job. Australian firms had the opportunity but could not face up to providing the equipment that was required. Some of the equipment up there is equipment we have never seen here before. The dredge *Alameda*, I believe, is a magnificent piece of machinery. We just did not have this type of equipment, which is why the tenders were called throughout the world, and that is why we had to facilitate the working of these vessels.

Mr. Curran: But the Act would not stop them using modern machinery of that nature as it was.

Mr. ROSS HUTCHINSON: I am coming on to that one.

Mr. W. Hegney: Make sure you do.

Mr. ROSS HUTCHINSON: It is interesting that the member for Cockburn should mention that, because I am going to deal with that point; but not now. I am going to deal with it in my speech on the Bill introduced by the Deputy Leader of the Opposition.

If the Government had not taken this action to invoke the powers in the marine Act to facilitate these works in the north-west, it could have been criticised very severely indeed. That is how silly this motion of the member for Fremantle is.

Mr. Fletcher: I beg your pardon? Did you say I was silly?

Mr. ROSS HUTCHINSON: No; I said the motion was silly.

Mr. Fletcher: Oh!

Mr. ROSS HUTCHINSON: I will reserve my own personal opinion on the honourable member's interjection! There has been a lot of nonsense written and spoken about regulation 102 and the working of the Act. If the exemptions, as we are granting them, cannot be granted, then the vital developmental works of the north-west will be virtually crippled. They could even for a time grind to a stop until saner actions prevailed. Is that what the member for Fremantle wants? That is what would happen, because it would be the reaction.

Mr. Rowberry: The member for Fremantle thinks that nothing should grind to a stop under this Government.

Mr. Nimmo: That's for sure!

Mr. ROSS HUTCHINSON: The main exemptions from the requirements of the Act are (a) certificate of seaworthiness, which is for safety purposes, and safety was one of the factors mentioned; (b) nationality of the officers to be carried; and (c) scale of crews required. Even without the powers under regulation 102, the Government may, by proclamation, exempt any ship from the application of part IV of the Act.

Mr. Tonkin: Navy ships.

Mr. ROSS HUTCHINSON: They may be any ships, if the member would check.

Mr. Tonkin: Yes.

Mr. ROSS HUTCHINSON: The honourable member should have another look. I repeat, even without the powers under regulation 102 the Governor may by proclamation exempt any ship from the application of part IV of the Marine Act. Part

IV is headed "Survey of Ships. Division 1. —Application of this Part." and reads as follows:—

(1) This Part of this Act shall apply to all ships, British or Foreign, except—

- (a) passenger ships in respect of which certificates granted under Part III of the Merchant Shipping Act, or declared under that Act to have the same force as if so granted, are in force;
- (b) ships of any class for the time being exempted from this Part by proclamation issued and in force under this section;
- (c) ships not propelled by steam and not used in trade or commerce or for the purpose of gain; and
- (d) ships to which Division 1 or 2 of Part IV. of the Navigation Act, for the time being lawfully applies.

(2) The Governor may at any time and from time to time issue any proclamation for the purposes of this section, and may thereby exempt any ships of any particular class from this Part of this Act, and may at any time and from time to time revoke or vary any such proclamation.

This, I assume, is what the member for Cockburn was referring to.

Mr. Curran: Yes.

Mr. ROSS HUTCHINSON: Maybe more of that anon. So it was possible for the Government to have exempted those ships by proclamation.

Mr. Hawke: This Government does not issue proclamations!

Mr. ROSS HUTCHINSON: So the certificates of seaworthiness could have been covered by proclamation. That was in the Act long before the regulation-making power of 1952 was included. However, we did not do this by proclamation under that section, but under the powers of regulation 102. The exemption does not prevent the officers of the Harbour and Light Department making inspections of ships and their gear at any time. This power is given under section 15 of the marine Act and the Deputy Leader of the Opposition has referred to this particular section on a previous occasion.

All the ships which are at present operating under an exemption have at some time been inspected by officers of the Harbour and Light Department and in a number of cases have been made to correct deficiencies in the gear carried. This is a good thing—and I have stated this point in answer to questions—and it is appropriate that this should be so.

It would appear that the necessity for a regulation such as 102 was for the purpose of allowing ships which had been granted exemption to carry their own crews. The member for Fremantle did not deny that this should be so, and this was the reason for the amendment in 1952 to which the member for Cockburn has referred.

Mr. Tonkin: What was the reason in 1952?

Mr. ROSS HUTCHINSON: One of the reasons was to permit the ships to carry their own crews.

Mr. Tonkin: According to the reason given by the Minister at the time, it was so that the masters could be given certificates.

Mr. ROSS HUTCHINSON: I have something to say about that too, and I will come around to it after the dinner adjournment.

Mr. Hawke: Is the Minister coming around here, on this side of the House, to finish his speech?

Mr. Tonkin: It is all right for the Minister to give reasons.

Mr. ROSS HUTCHINSON: I do not want the honourable member to become impatient. That was another Minister, 13 years ago.

Mr. Tonkin: Yes; but the remarks were made when the Bill was introduced.

Mr. ROSS HUTCHINSON: I will refer to that. I have something to say about that particular aspect.

Mr. Tonkin: I should hope so.

Mr. Court: It is interesting to listen to the Deputy Leader of the Opposition. A few weeks ago we were told that we should not quote views expressed 12 years ago.

Mr. ROSS HUTCHINSON: I would like to refer to the matter of watchmen. Regulation 102 has nothing to do with providing watchmen. This provision is made by the individual port authorities. For instance, at Fremantle the regulation made under the provisions of the Fremantle Port Authority Act is the same regulation issued by the Harbour and Light Department.

So I conclude by saying that if it is the wish of the honourable member to cripple the developmental works in the north-west, this is the way to go about it. I hope that when the honourable member replies to close the debate and eventually sits down, and the question is put by the Speaker, the member for Fremantle will not call "Divide." Of course, we know what the result would be; but it would be wise, in my view, not to divide the House and so place some of his colleagues in the invidious position of having to vote for something they do not want. The Government opposes this motion.

MR. TONKIN (Melville—Deputy Leader of the Opposition) [6.14 p.m.]: I listened most carefully to hear a single statement from the Minister which could be taken as evidence of the statements he was making.

Sitting suspended from 6.15 to 7.30 p.m.

MR. TONKIN: The Minister for Works in replying to the case put up by the member for Fremantle in support of his motion—and in my opinion it was a very good case—relied almost entirely upon assertion. I listened very patiently for some facts, some supporting evidence, but the Minister gave absolutely none.

Mr. Ross Hutchinson: What nonsense!

MR. TONKIN: I am wondering why—

Mr. Ross Hutchinson: What nonsense!

MR. TONKIN: No; it is not nonsense.

Mr. Ross Hutchinson: Of course it is.

MR. TONKIN: I invite the Minister to have a look at his script and select evidence, not statements, or assertions of opinions. They are not evidence.

Mr. Ross Hutchinson: You can see by the answers I have given.

MR. TONKIN: I want some evidence in regard to the statement.

Mr. Ross Hutchinson: I will read it again for you.

MR. TONKIN: The Minister's answer can be summed up in these words: "Vital work will be virtually crippled if there is no exemption." That may be true; but the Minister did not advance a single piece of evidence to substantiate it—not a single thing. I would have expected him to make some comparison of the conditions and to say, "Well, the cost will be prohibitive and so we have to risk men's lives in order to make it economic for these people to operate."

Mr. Ross Hutchinson: You know that is wrong.

MR. TONKIN: We will see if it is wrong.

Mr. Ross Hutchinson: Risking men's lives! You know that is wrong.

MR. TONKIN: We will see if it is. I say to you, Mr. Speaker, and through you to any honourable member in this House, that if you or he can think of one single bit of evidence which the Minister adduced to support the statement that "vital work will be virtually crippled"—

Mr. Court: I think he was quite explicit on the point. He gave an example of the *Alameda*.

The SPEAKER (Mr. Hearman): Order! One at a time. We had too many interjections the other night.

MR. TONKIN: Examples, I think you will agree, Mr. Speaker, unless they are factual, are only illustrative. They do not prove anything. We must have some

facts, and I will give the Minister some facts to prove my contention before I finish. One of the vessels concerned is the *Mariko*; and according to the President of the Waterside Workers' Federation, who waited on the Minister, the *Mariko* was the subject of a board of reference on the 13th July. It had two bent derricks. The employer had said that this ship was A1 at Lloyds; but what did the board of reference do? According to my information it ruled that the derricks must be repaired before they were used in the Port of Fremantle. Does that mean that this ship could go up north and use those unsafe derricks?

Mr. Ross Hutchinson: No.

MR. TONKIN: Who would there be to take action to see that the ship did not, because it had an exemption under the Act?

Mr. Ross Hutchinson: Mr. Speaker, I explained how this was so.

The SPEAKER (Mr. Hearman): Order! The Minister cannot make an interjection through me.

Mr. Court: The honourable member is just ignoring the facts that were stated.

MR. TONKIN: Another vessel was the *Tanais*; and according to the statement made to the Minister—and he had an opportunity of checking the statement and replying here if he wanted to do so—which is shown in the notes of the deputation which waited on the Minister, the President of the Waterside Workers' Federation referred to the fact that there was a bent derrick on the *Tanais*. This has since been repaired, and a responsible officer on the *Tanais* said that the derrick was bent through overloading.

That information was given to the Minister and he had the opportunity of checking it and coming here and giving the facts but he made no attempt whatever to deal with it. On the 20th August a complaint was made that the loading procedure on the *Mariko* at Fremantle was dangerous and so the President of the Waterside Workers' Federation, in accordance with his duty, went across to have a look at it. He found two derricks working in what is called union purchase—two derricks operating coupled together.

Painted on one of the derricks was, "Safe load: three tons." The regulations state that unless an attempt has been made to ascertain what is the safe working load with derricks working in union purchase it shall not exceed half of the safe working load of one of the derricks. When it was drawn to the captain's notice that they were overloading these derricks in union purchase he expressed ignorance of the regulations.

Over the years Governments have gone to considerable pains to ensure, as far as possible, the safety of men who work in dangerous places, and so we have what are

known as Statutory Rules, 1961, No. 128. These are regulations under the Navigation Act, 1912-1958, and Navigation Loading and Unloading Safety Measures Regulations. These are promulgated for the purpose of protecting human life, but they are swept aside by regulation 102. I quote regulation 26 from page 9—

(1) Where derricks are rigged for use in union purchase, a responsible person may determine the safe working load for the derricks so rigged, being a load which, if lifted by the derricks so rigged, will not, in his opinion, impose a load on any part of the cargo gear used in the rig greater than the safe working load for that part as determined under sub-regulation (1) of the last preceding regulation.

(2) Unless a safe working load has been determined under the last preceding sub-regulation, the load that may be lifted by derricks rigged for use in union purchase shall not exceed half of the safe working load determined for either of the derricks under sub-regulation (1) of the last preceding regulation.

Mr. Ross Hutchinson: This has no bearing on the matter.

Mr. TONKIN: In this case the master of the vessel had taken no steps to determine the safe working load. Therefore, if these regulations had not been pushed aside by Government action, the safe working load on that vessel for those derricks in union purchase was 30 cwt., and they were being overloaded.

Mr. Ross Hutchinson: But regulation 102 does not control things of this kind if they are there.

Mr. TONKIN: Oh yes it does!

Mr. Ross Hutchinson: It does not.

Mr. TONKIN: If the Minister will be patient I will show him that it does. I have here the Minister's letter dated the 18th August, 1965; and I wanted to be sure of this position, so I asked him how much of the Act was pushed aside by this regulation, and his answer was—

With regard to the question you have raised in your second paragraph the answer is that the exemption applies to all the requirements of the Act.

Then he goes on to say—

—which are—

- (a) certificates of seaworthiness;
- (b) nationality of certified officers to be carried.

Mr. Ross Hutchinson: I have said that tonight, already.

Mr. TONKIN: It continues—

- (c) the scale of crews required.

They are not all of the requirements of the Act.

Mr. Ross Hutchinson: Those are all the powers that are required.

Mr. TONKIN: So if the Minister did not intend to grant exemption from all the requirements of the Act, why did he not say so?

Mr. Ross Hutchinson: Why did you allow regulations to go through in 1952? It is the same principle.

Mr. TONKIN: The Minister dictated this letter himself, I hope, and therefore would be familiar with its contents. I did not draft it. But I asked the question—

To what extent did the exemption apply?

The Minister replied—

With regard to the question you have raised in your second paragraph the answer is that the exemption applies to all the requirements of the Act.

Mr. W. Hegney: That's a beaut!

Mr. TONKIN: It is a bit futile to try to argue here now that that exempts only portion of the Act and not all of the Act.

Mr. Ross Hutchinson: Only to offset these works; it is not to excuse any safety factors.

Mr. TONKIN: Let us have a look at some of these things which are satisfied by the requirements of the Act. The Minister quoted part IV. Unfortunately I did not hear him clearly, and I interjected, "That applies only to Navy ships." I thought he was referring only to section 5.

Mr. Ross Hutchinson: You heard me!

Mr. TONKIN: I now say I did not hear the Minister clearly, and I thought he was referring to section 5. I now agree that part IV, to which the Minister referred, does provide power for exemption of survey, but it is a limited power. I also point out that in this part to which the Minister refers, section 38 provides this—

The Department may accept and recognise all unexpired certificates in legal operation issued under any Act or Statute in force in the United Kingdom or in any British possession for any ship trading to or from any port within the jurisdiction, and the acceptance and recognition shall render those certificates as valid and effectual for all purposes as if issued under this Act.

That is what the Minister is doing, but subsection (2) of section 38 provides—

The Department may disallow and reject any certificate mentioned in subsection (1) of this section, whenever in its opinion, acceptance would be attended with risk or uncertainty, and any certificate so disallowed and rejected shall, for and within the jurisdiction, be and be deemed to be a cancelled certificate.

I heard no evidence adduced this evening by the Minister that his department has any intention of operating that section. On the contrary, it has accepted the certificates whether they be from Hong Kong or Jerusalem.

Mr. Ross Hutchinson: They are neither from Hong Kong nor Jerusalem. I have told you where they are from; and I told you that two ships were not permitted to operate.

Mr. TONKIN: Seeing that all the regulations of the Act are set aside, this particular regulation applying to the accommodation of seamen is set aside—

The owner of every vessel shall—

- (a) make provision in the vessel to the satisfaction of the surveyor or the prescribed official for the adequate ventilation of the officers' rooms, engine room and stokehold; and
- (b) make provision, where such can be provided without detriment to the safe navigation of the vessel, for a wheelhouse, or, if such is not practicable, such temporary shelter as may be prescribed.

Then follow many more provisions for the convenience of the men who work in these ships. The Minister, by his regulation, has absolved the master from any compliance with those requirements. I quote from section 169 of the Act which refers to the provision in the ship of these necessary requirements—

Every place in a vessel which is appropriated to the berthing accommodation of seamen or apprentices, shall—

- (i) have for each seaman and apprentice a space of not less than one hundred and forty cubic feet and of not less than eighteen superficial feet measured on the deck or floor of that place, and of not less than five feet measured between bunks clear of all encumbrances at the forward or narrow end;
- (iii) be kept free from all goods and stores not being the personal property in use of the crew, and be so constructed as to be wind and weather proof and adequately lighted and properly adapted for the preservation of the health and comfort of the seamen berthed therein.

That is wiped out. There is no need for the master to comply with that if regulation 102 is applied to his vessel.

When the Minister was speaking I asked him whether the gear on the *Western Pueblo* had been inspected by the departmental surveyors, because he said that this vessel which is flying the flag of convenience—he did not say that, but I do, because it is flying the Liberian flag which is recognised as being the flag of convenience—had had its certificates accepted because they were current certificates of the United States of America Bureau of Shipping. In addition, he said the surveyors had inspected the vessel, and I asked whether they had inspected the gear, and his answer was "Yes." It must have been a pretty perfunctory examination.

The *Daily News* of Thursday, the 26th August, contained a picture of a seaman in bed with a broken pelvis, and I quote the article which accompanied it—

Cook Crushed Between Ships.

While climbing a rope ladder Arthur Hartley (43) was crushed between his ship and a tug tossed by heavy seas.

He is in Fremantle Hospital with a broken pelvis and two broken ribs.

Just over a week ago Mr. Hartley, chief cook on the freighter *Western Pablo*, was returning to the ship with some stores he had bought in Roebourne.

A heavy swell, with 15 ft. waves, had developed. As he started to climb up the rope ladder strung between the two heaving ships, the second bottom rung broke.

That is the ship's gear, which presumably was inspected by the surveyors of the Harbour and Light Department. For the rung of a rope ladder to break, it must have been rotten.

Mr. Fletcher: Get out of that one.

Mr. TONKIN: Is that an accident, or an act of God? In my opinion it is just clear negligence. I would advise that seaman not to take worker's compensation in connection with the accident, but to sue the master of the vessel for negligence; sue him at common law for negligence. I suppose what the master will do will be to cite a certificate from the Harbour and Light Department and say this gear was inspected by the department and passed as satisfactory.

That is the state of affairs which this regulation makes possible. The very basis of our complaint about this is that human life is a secondary consideration—

Mr. Ross Hutchinson: That is not so.

Mr. TONKIN:—that the number one consideration is the profit to be made. Why cannot the ships operate in the north if they observe the requirements of the law in regard to safety and safe loading? Let us have some reasons why they cannot, to see whether they justify exposing men to serious injury.

Mr. Ross Hutchinson: I have already disproved a lot of the assertions made.

The SPEAKER (Mr. Hearman): Order!

Mr. TONKIN: The Minister has not disproved anything. Unfortunately the Minister does not seem to have an appreciation of the difference between a statement of opinion and the production of evidence. Saying that a thing is safe does not prove it is safe. Here, apparently, is a case where the ship's gear was unsafe. Who would be so fatuous as to say that a rope ladder in good condition would give way under the weight of a man? Yet, according to this article the second rung of the ladder broke under the man's weight. The only conclusion to which we can come is that the gear was rotten.

Mr. Fletcher: As rotten as the rest of the gear on it.

Mr. TONKIN: Are we to be satisfied with a situation like that, simply on a statement by the Minister that vital work will be virtually crippled if there is no exemption? If that is to be the cost of its being crippled, it will just have to be crippled. We are certainly not going to cripple the men.

In the Port of Fremantle there is a wide-awake Waterside Workers' Federation which will watch what is going on with regard to loading; and under the Act it will require a board of reference wherever there is any legitimate doubt about the safety of working conditions. But that will not be so up the coast.

Mr. Ross Hutchinson: That is wrong, because there have been officers of the Harbour and Light Department going up there.

Mr. TONKIN: What good is that? They inspected this rotten ladder.

Mr. Ross Hutchinson: They can also board these ships at any time. I have already explained that.

Mr. TONKIN: That is not satisfactory to me.

Mr. Ross Hutchinson: You just talk.

Mr. TONKIN: The safety regulation should not be relaxed in the slightest particular.

Mr. Court: The same men are inspecting our ships in the northern ports.

Mr. TONKIN: Oh no they are not!

Mr. Court: Who are?

Mr. TONKIN: They are not being surveyed in the northern ports. My complaint is that the Government has deliberately, for reasons not yet made available to the House, exempted the vessel from all the requirements of the Act. There is no justification, in my opinion, for dispensing with a survey. If these regulations are regarded as necessary in the ordinary circumstances, they are still necessary even

though vital work is progressing in the north. The vital work is not to be done at the expense of the safety of the men engaged on it.

Mr. Ross Hutchinson: Nor is it.

Mr. TONKIN: Oh yes it is, as is obvious from this report.

Mr. Court: There are mishaps in any port.

Mr. TONKIN: This is a mishap due to broken and rotten gear.

Mr. Court: Only a few months ago there was a mishap on an Australian ship under Australian supervision and survey.

Mr. TONKIN: I would say to the Minister in reply to his foolish interjection, that does not prove that these regulations are not desirable. If that is the case, then let us wipe them all out. We all know that man being as fallible as he is, it is impossible to reach a state of perfection, even with Ministers for Industrial Development. But we must aim at getting a maximum of security, and we will not get that if we relax the very provisions set down over the years to ensure reasonable safety.

One might as well take the factories Act and say that in order to induce some firm to come here from America or Japan we will put through a regulation exempting such firm from all the requirements of the factories Act, because it would be uneconomical for it to operate if it had to comply with its requirements. That is a line of argument to which I do not subscribe.

I would suggest to the Government that there is a right way to do this, and that is to introduce a special Bill in which are set out the peculiar conditions which apply, and the particular exemptions which shall be granted in order to facilitate this northern development. Then we will know exactly where we are. To push the whole Act aside—to set aside the provision with regard to the convenience and comfort of seamen and that with regard to safety loading and the condition of ships' gear, and to cover it with a perfunctory inspection and survey by departmental officers—in my view is not satisfactory.

I have one further point to which I desire to reply, and I cannot quite follow the Minister's reasoning in this. The Minister said that when in 1952 Parliament put this provision into the Act to give the Governor power to make a regulation exempting any body or any ship from all or any of the conditions of the Act, it was done for several purposes. When I said that was not the reason the Minister gave when he introduced the Bill, he said, "It is a different Minister."

I cannot see the force of that at all. When a Minister gets up in this House and gives a Government reason for the introduction of legislation, surely one is entitled to believe the reason given, until it is proven otherwise. The then Chief Secretary gave as his reason, and the sole reason, that it was required in order to enable the foreign masters of these vessels to avoid the requirement of the law—

Mr. Craig: Did you say the Chief Secretary?

Mr. TONKIN: Yes. The late Mr. Doney was the Chief Secretary at the time. He gave as his reason that it was required to enable the masters to avoid the requirement of the law which states that a certificate cannot be granted to a person who is not a subject of Great Britain or of the Commonwealth of Nations. That was the reason he gave, and that was understandable, because these were Dutch dredges and they had come here under Dutch masters. Our Act required that they should have certificates, but as the Act stood they could not be given certificates.

Mr. Ross Hutchinson: Yes they could.

Mr. TONKIN: No; they could not.

Mr. Ross Hutchinson: Yes they could.

Mr. TONKIN: That was what the then Minister said.

Mr. Ross Hutchinson: I have already told you about that when I spoke on the motion of the member for Fremantle. I shall tell you again, but I know you will not listen.

Mr. TONKIN: If the Minister can produce some evidence in support of his assertion I shall believe it. A mere assertion does not prove anything.

Mr. Court: You do not think he tells lies?

Mr. TONKIN: The Minister for Industrial Development is just as bad. He seems to think that he is an oracle, and that what he says must be right. We on this side want some evidence to back up the statement.

Mr. Court: The great authority on law speaks!

Mr. TONKIN: We want some proof to back up the assertion. It is so easy to make an assertion, especially by one on the Government side, with a majority to back it through fire and water. It is so easy to say things; but it is much more difficult to prove them. If the Minister doubts the statement which I have made about the then Chief Secretary giving the reason, all he has to do is to read the then Chief Secretary's speech in *Hansard*.

Mr. Ross Hutchinson: I told you he has the power to waive surveys.

Mr. TONKIN: The waiving of surveys has nothing to do with the issuing of certificates to masters of vessels.

Mr. Ross Hutchinson: Certificates to masters?

Mr. TONKIN: Yes.

Mr. Ross Hutchinson: You do not know what you are talking about.

Mr. TONKIN: At the risk of taking up some time I refer to part III of the Act relating to examinations and surveys. Subdivision (i) covers examinations and surveys of masters, mates, engineers, marine motor engine drivers, and coxwains.

Mr. Ross Hutchinson: That has nothing to do with what you said.

Mr. TONKIN: The Minister says it has nothing to do with the matter because it is germane to the subject! That is the reasoning of the Minister. The provision in the Act to which I have just referred sets out that the master must have a certificate. Section 19 (2) states—I shall read it slowly so that the words can sink into the Minister's head—

No person shall be eligible for candidature for examination unless he is a British subject.

Because these Dutch masters were not British subjects they could not be granted certificates under the marine Act, so the Government of the day amended the section—and we were told by the Minister—for the sole purpose of enabling certificates to be granted to foreign masters. If there were other reasons which the Minister deliberately withheld from Parliament it was inexcusable conduct.

Mr. Ross Hutchinson: The most obvious reason was the regulation-making power written into the Act.

Mr. TONKIN: It was inexcusable conduct, and apparently the Minister sees nothing wrong in it, because his answer to me when I brought the matter up was that another Minister was concerned. Apparently the philosophy on the opposite side of the House is this: So long as it is a different Minister who makes the statement, what does it matter whether the statement coincides?

Mr. Ross Hutchinson: What a lot of nonsense!

Mr. TONKIN: It is all very well to make a statement like that, but one requires more than statements to upset an argument.

Mr. Hawke: I think you have achieved a lot. You have got the Minister thinking.

Mr. Ross Hutchinson: You have got me wondering.

Mr. TONKIN: We say that a regulation which completely sets aside an Act of Parliament is a bad regulation; and to put it mildly it was a foolish Parliament which agreed to that power being inserted in the Act. Any Parliament in a democracy which deliberately puts into the hands of the Executive the power to set the law aside is heading for trouble.

Mr. Bovell: Did you not support the measure?

Mr. TONKIN: I have already explained that *ad nauseum*.

Mr. Bovell: But the fact remains that you supported it.

Mr. TONKIN: And the fact remains the Minister supported it also.

Mr. Bovell: I am not raising this as argument.

Mr. TONKIN: That does not make it right. It is a travesty of democratic government, and it is a blot on this Parliament while the provision which enables a regulation to set the Act aside remains in the Act.

For the benefit of members who did not hear me make the statement, I propose to recount the facts. When this matter was brought to my notice a few months ago, I said the Government could not do such a thing. Accordingly, I rang the Crown Law Department.

Mr. Ross Hutchinson: Can I warn you not to say this again?

Mr. TONKIN: It would make no difference if the Minister did.

The SPEAKER (Mr. Hearman): Order!

Mr. TONKIN: I rang the Crown Law Department and contacted quite a responsible officer. I asked him to advise me where in the Statutes I could find a provision to empower the Government to make a regulation to set an Act aside. He said no such power existed, and I replied that was what I thought. What an extraordinary situation is this! Parliament deliberates, draws up provisions which it intends to apply, and then it says in effect to the Executive, "Whenever it suits you, despite the fact that this Act binds the Crown, you can promulgate a regulation to exempt yourself and anybody else from all, or any, of the provisions of the law."

The SPEAKER (Mr. Hearman): Order! The honourable member has another five minutes.

Mr. TONKIN: That would be more than ample. What I have outlined is precisely the situation with regard to this regulation. What is more, the Minister says it is being used for that very purpose. The exemption applies to all the requirements of the Act; so that the Act has been set completely aside. We are told by the Minister this has been done in order that vital work in the north may proceed; and the inference is that, without it, the vital work could not proceed.

I say it is up to the Government to give some particulars and show whether it is a question of costs, inconvenience, or any other reason; but not a single reason has been advanced to this Assembly. I support the motion.

MR. FLETCHER (Fremantle) [8.11 p.m.]: I rise to reply to some of the weak arguments submitted by the Minister in answer to the motion I moved to disallow this regulation. The Deputy Leader of the Opposition has put forward a far better reply to the Minister than I can do now, or, I believe, ever can. However, I will deal with aspects that were not covered by the Deputy Leader of the Opposition. My motion reads as follows:—

That new regulation 102, made under the Western Australian Marine Act, 1948-1962, published in the *Government Gazette* (No. 29) of the 23rd March, 1965, and laid upon the Table of the House on the 3rd August, 1965, be and is hereby disallowed.

I have no doubt that I will lose this argument. As the Minister said, it is inevitable. But if I were to be here alone, I would still argue with the Government on behalf of those who requested me to have this regulation disallowed.

Mr. Ross Hutchinson: Are you going to divide the House on this?

The SPEAKER (Mr. Hearman): Order!

Mr. FLETCHER: I am wondering whether the Minister is trying to intimidate me into not calling "Divide" on the ground that many members on this side of the House are away sick, as distinct from the depleted numbers that exist on this side.

Mr. Ross Hutchinson: On the contrary, I am trying to get you to divide.

Mr. FLETCHER: If I were alone on this side of the House I would take exception to what this Government has done. I would do this on behalf of those who requested me to express opposition. The Minister in his reply gave the impression that this was some conspiracy hatched up by the member for Fremantle to embarrass the Government; but it was no such thing. I read correspondence *ad nauseum* to this House, and quoted facts, figures, and minutes of meetings held in Fremantle dealing with this subject. I did not move this motion to annoy the Minister or to annoy the Government.

As has been pointed out, regulation 102 was brought into existence—and there is evidence of the fact in the Statutes: No. 1 of 1952, page 257, when the Western Australian Marine Act of 1948 was amended—for a specific purpose to apply to a specific type of ship. It was to apply to only one type of ship—dredges—and to dredges of only one nationality. The then Opposition did not forcibly oppose the measure because its members were anxious to see the Parmelia Bank and the Success Bank dredged. That is why they took no exception to it. As I have said in this House before, they were not able to see around the corners and therefore did not know the mischief this Government would do with a measure brought about for that

one specific purpose. The Government is now using that legislation to aid and abet overseas interests in the exploitation of the wealth that exists in the north.

I suggest that the member for Darling Range, who is so far removed from the port, should not snigger at what I am saying. I will produce evidence to show that it is not only the member for Fremantle who takes exception to the regulation, but also *The West Australian* newspaper.

Mr. Ross Hutchinson: I think it was sadly misinformed.

Mr. FLETCHER: According to the Minister, everybody is misinformed. I admit he represents an area of the coastline; but as far as I know, that is the extent of his knowledge.

I was pointing out that this regulation was brought about for one class of shipping. However, the result now is that flags of convenience are under the umbrella of this regulation. The Minister said there was no umbrella exemption in respect of Dutch ships and others of different nationalities.

The Minister said I was not aware of the details; but I have presented details on behalf of those who are well informed on this subject. The Minister listens to the Crown Law Department and others. However, my co-operation was sought by men affected by this regulation, including the Merchant Service Guild, composed of highly-educated, qualified men; the Institute of Power and Marine Engineers, also composed of highly-certificated men; and seamen in various grades: men with considerable education and knowledge. These organisations and men requested me in correspondence, which I read to this House, to do my best to see that this regulation was wiped out. I submit that those I have mentioned are highly-qualified men.

As I said in my original speech, they have a greater knowledge on this subject than the Crown Law Department, or anybody in this House, including the appropriate Minister and the Minister for Industrial Development. That may come as a surprise to both of them, but I repeat: Those who asked me to raise this matter in this House have a greater knowledge of the subject than either of the two Ministers I mentioned.

The Minister took me to task for alluding to the bent crane on the *Western Pueblo*; and I believe that, to the best of his endeavours, he tried to prove that this crane was bent in a certain direction. I had a photo which I produced to this House when I addressed it originally on this subject; and with the aid and assistance of a competent clerk of this House I have another copy of this photo—I lost the original one—which appeared in the *Daily News* of the 6th July. I would like the Minister to listen.

Mr. Ross Hutchinson: I am listening.

Mr. FLETCHER: On page 1 of the *Daily News* of the date mentioned is shown a photo of the bent crane, and there is the heading, "Now That Was a Bender." I will read the quotation under the photo—

An unusual floating workshop sailed into Fremantle Harbour today . . . in quest of a workshop for her own repairs. The *Western Pueblo*, registered in Monrovia, Liberia, and manned with an American crew, looked a sorry sight with the jib of her steel crane bent like a banana and resting on the bridge.

I repeat, "resting on the bridge". This photo distinctly shows the crane, not bent backwards as the Minister suggested, but bent forward; and leaning where? On the bridge. If it were bent backwards where would it be leaning? It would be on the stern of the ship and not on the bridge. Here is the evidence; and if members want to see it, come and take it from me. I have blown the Minister's case to ribbons—

Mr. Hawke: Hear, hear!

Mr. Court: Just how silly can you get!

Mr. Brady: I think the Minister ought to resign.

Mr. FLETCHER: —that is if there was any case left after the competent way it was disposed of by the Deputy Leader of the Opposition.

Mr. Brady: They can't pull the wool over your eyes, Harry.

Mr. FLETCHER: I will admit that they could in some respects, but in relation to such visual evidence as that, I agree with the member for Swan; they cannot. I have shown the photo to the House to counter the argument used by the Minister—or was it an argument? I congratulate him on his debating ability; but he would have done a much better job had he had a better case.

The Minister took me to task for having said, when introducing the motion, that some men were being put ashore and others were being put on board as a result of this regulation 102. The Minister is not justified in not listening to my argument to counter his.

Mr. Ross Hutchinson: I am talking about it.

Mr. FLETCHER: Thank you very much! I was saying that the Minister took exception to my allegation that as a consequence of this regulation men could be put ashore and others placed on board ship in lieu thereof. Comment appeared in the Press in relation to this matter, but I will come to that later. First let me read material brought forward at a meeting at which were present representatives

of the Institute of Marine Engineers, the Merchant Service Guild, the Seamen's Union, and others. Paragraph 15 reads—

Because of the policy of the Federal Government which has resulted in the disposal of Australian coastal ships,— I ask the Minister's attention.

—large numbers of marine engineers and deck officers have left the shipping industry. Today there is a shortage of about 200 certificated marine engineers. This was revealed at a recently held conference of superintendent engineers.

Paragraphs 16 and 17 read—

The policy of the State Government will aggravate this position and create the basis for the intrusion of more foreign manned ships.

Japanese labour has been recruited to work on the dredge *Alameda* at Port Hedland—allegedly "experts". Fact is that bulk of them are deckhands, oilers, labourers.

That is what has happened here. In paragraph 15 it states that 200 certificated marine engineers are ashore in Australia. And why? Because overseas shipping interests are doing the business that should be done by Australian shipping lines.

Mr. Court: That is not the reason at all.

Mr. FLETCHER: I ask the Minister for Industrial Development to be patient. I am not addressing my reply to him.

Mr. Court: I am sorry if I am upsetting your reply.

Mr. FLETCHER: *The West Australian* of Wednesday, the 18th August, referred to matters relevant to the Minister for Industrial Development. He is probably already beginning to feel uncomfortable.

Mr. Court: No.

Mr. FLETCHER: No? I very much doubt it! In support of the extracts I read in relation to the meetings in Fremantle, I would like now to read in its entirety the leading article of the 18th August.

Mr. Dunn: This is when you use the Press is it, and not abuse it?

Mr. FLETCHER: The Press was of considerable assistance to me in relation to that photo which did not lie. The article reads—

RAW DEAL FOR THE STATE'S OWN SHIPS

No convincing reason has been given for the failure of the State Shipping Service to handle the iron-ore development trade.

The S.S.S. should have had first call on this new, if temporary, business because Western Australia is entitled to all the subsidiary benefits it can get from what is happening in the Pilbara and the S.S.S. needs all the

net income it can earn. Instead, the trade will be conducted by a West Australian private operator using chartered foreign ships manned on overseas pay rates.

Mr. Court: The State ships are carrying every ounce they can squeeze on them.

Mr. FLETCHER: Continuing—

North-West Minister Court claims that the S.S.S. would have incurred a heavy loss if it had gone abroad for ships and manned them with Australian crews. This argument is valid only if it assumes that freight charges would be too low to make a profit. What would have prevented the government temporarily augmenting its fleet, preferably with Australian ships, and charging rates that would more than cover expenses, including unprofitable return running from the North?

They posed that question. The article continues—

The government's attitude shows a deplorable lack of enterprise and failure to put the State's maritime interests first.

This is strange comment to come from the Press.

Mr. Court: How do you get on when every ship is full?

Mr. FLETCHER: Continuing—

Instead of using its coastal monopoly to benefit the State it has disregarded the principles on which the Australian mercantile marine has been built.

Other countries, including the United States, put their shipping first. Even here, the government is careful to protect its railway revenue against road competition. What is right on land cannot be wrong at sea.

The small privately-chartered tanker on the North-West coast should be under S.S.S. control. The government has recognised the need for bigger and more specialised ships but its reluctance to make use of special opportunities in the North raises a doubt whether the Grants Commission will ever be satisfied with S.S.S. results.

Before the Minister for Industrial Development interjects I will say that the Government frequently uses the argument that the Grants Commission penalises us in certain respects. Here was an opportunity for the Government—

Mr. Court: To lose some more.

Mr. FLETCHER: —to obtain some extra revenue.

Mr. Court: To lose some more money.

Mr. FLETCHER: The Minister says, "To lose some more money." The seamen, the Press, and others, have shown that work was available to charter ships to augment our inadequate State Shipping Service.

Mr. Court: And lose some more money. Did you ever hear the story of my predecessor who tried to hire the *Peter Reed* from abroad? You want to read it one day to see how he got on and what action was taken to frustrate his efforts.

Mr. FLETCHER: I will read further Press reports to demonstrate the unanimity of attitude between the maritime interests I have mentioned and the Press as to the availability of other ships. I hope the Minister is listening. The following appeared in *The West Australian* of the 17th August:—

Iron Ports Shipping Draws Union Fire

At least three suitable Australian ships could probably have been chartered by the State Government for the iron ore development in the North-West, Seamen's Union secretary D. K. Dans said in Fremantle yesterday.

The D-class ship *Dubbo* had recently been sold by the Australian National Line and two more of its ships, the 600-ton *Enfield* and *Enmore*, were still laid up in the Eastern States.

Those ships are laid up while ships are brought from overseas to do work which should rightly be done by the State Shipping Service. Further down the article states as follows—

Regulation 102 was added to the act in March expressly to allow the operation of iron-ore ports and foreign-owned dredges and ships.

That is the Minister's explanation. To continue the newspaper article—

Works Minister Hutchinson said yesterday that regulation 102 enabled exemptions to allow foreign ships to carry out works which could not be done by any other means.

The Seamen's Union and *The West Australian* have mentioned alternatives to the procedure adopted by this Government. Another paragraph further on in the article reads—

Mr. Garrick Agnew, of Garnew Shipping, charterer of the Greek freighter *Tanais* and the Danish freighter *Lis Frellsen*, said the ships were under charter to his company for one year.

But I would submit that the charter could be renewed year by year. I quote valuable comment made by the gentleman mentioned as follows:—

He had won the contract in competition with several foreign companies. He did not think it would be profitable if he operated the ships on Australian conditions and pay rates.

Where could one find a balder statement by way of admission that Australian pay rates and conditions are being pulled down? I refer the House to a recent TV news item wherein was shown a beautiful craft that had been built for the gentleman just mentioned. The cost ran into thousands of pounds. You, Mr. Acting Speaker (Mr. Crommelin), with your knowledge of craft on the river, would know the craft to which I allude. It cost thousands of pounds, and I ask: Where is the money coming from? It is coming from profits made as a consequence of this sort of blessing given to private enterprise at the expense of the State Shipping Service, and at the expense of the Seamen's Union and our other institute of marine personnel and merchant guild personnel. This, among others, is the reason why these people asked me to take exception to the regulation.

The Minister says that each case will be treated on its merits. I say quite frankly that if there is a loophole in the law it will be found by the legal profession on behalf of business interests, and in this case a loophole was found in regulation 102. Irrespective of the Minister's assertions to the contrary, the Institute of Power Marine Engineers, the Merchant Service Guild members, and the transport group of the Trades and Labour Council saw their future—and even their safety—in jeopardy. Relevant to that comment, the Deputy Leader of the Opposition showed that there is a person in hospital as a consequence of faulty gear on a ship which I have mentioned—the *Western Pueblo*. That was not coincidence.

Ross Hutchinson: The ship was repaired after an accident.

Mr. FLETCHER: Yes, after an accident.

Mr. Ross Hutchinson: I explained the accident when I spoke.

Mr. FLETCHER: It is relevant that there was a faulty rope ladder on the same ship. The Minister, in his endeavour to argue away that factual and visual evidence, implied that a top lift had pulled the crane over backwards. I submit this to you, Mr. Acting Speaker (Mr. Crommelin)—not to the Minister—that having spent some years at sea and having some knowledge of ships and having with me the member for Cockburn with his years of knowledge, there must have been some mechanical or other fault, even assuming that the crane was pulled over backwards, which would make such a mishap possible.

Mr. Ross Hutchinson: The cut-out failed.

Mr. FLETCHER: When introducing this motion I said—and I quote from page 400 of *Hansard* No. 4 as follows:—

Recently the Western Pueblo lifted an 82 ton lift with a 70 ton capacity crane. You saw the result when it came to Fremantle to get the crane repaired.

Yet this ship was reported to be Al by Lloyds. That crane which crashed is now bent like a hairpin and the accident could have killed some members of Australian crews; there could be orphans as a consequence of an accident such as that—

The Deputy Leader of the Opposition gave a further example of how there could have been orphans because of faulty gear. The Minister has not a leg to stand on. I know the ultimate result of any possible division will not settle the argument as far as the interests which asked me to bring this matter before the House are concerned. You, Mr. Minister, heard my remarks when I introduced the motion originally. You heard the case of the interests I have mentioned.

I would now like to read two paragraphs from a letter to demonstrate the concern of the people I have mentioned. The Marine Transport Group wrote to me on the 10th August, 1965, as follows:—

Mr. H. A. Fletcher, M.L.A.,
Parliament House, Perth.

Dear Mr. Fletcher,

Thank you for your prompt attention to our request that you should seek a deputation to the Minister for Works and for your advice of the reply by the Minister.

Having carefully considered the premises of the Minister's refusal to receive a deputation, the above group makes the following submissions:—

And among those submissions was this paragraph—

- (ii) Great concern is felt by our unions regarding the safety of our members in working the ships concerned. Safety, therefore, is a matter which does not brook delay.

Taking the date of that letter in relation to the incident related by the Deputy Leader of the Opposition, and related by me in my original remarks about the faulty gear, was not the marine group justified in being concerned? There are two events to substantiate the reason why they should feel concerned. I feel concerned for this reason: Whether the Minister did or did not tell the Press, as quoted in *The West Australian* of the 27th June, 1965, I do not know, but he was

quoted as saying—under the heading "Marine Law Regulation to be Amended"—the following:—

Works Minister Hutchinson will ask the Crown Law Department to draft a new Marine Act regulation to replace that criticised earlier this month by Opposition Deputy Leader Tonkin.

The Minister there gave the impression to the Press that the regulation was to be amended. But was it amended? No, it was laid on the Table of the House in its original form. I do not want the Minister to interject. He is quoted as having made that statement. I can only assume that it was as a consequence of the Minister, who sits on the Minister for Works' right, twisting his arm not to do so, for the purpose of advantaging private enterprise and the overseas shipping lines which are now doing the work which should be done by the State Shipping Service and the Western Australian personnel mentioned.

Mr. Hawke: That's giving them pepper!

Mr. FLETCHER: When asked if he had sought the co-operation of the Institute of Marine and Power Engineers, the Merchant Service Guild, the Seamen's Union, and others, the Minister said "No" he had not. In my speech in moving the motion I showed that had the Minister sought the help and co-operation of the members of those organisations he would not now be experiencing the difficulties with which he is confronted. The Minister might say that he is not having any difficulty. If he is not it is because he has the numbers behind him on that side of the House. That is why he is not having any difficulty, and I regret to see such an important issue as this being determined in such a manner.

Another extract I would like to quote is under the heading "Stand Against Injustice." This relates to aircraft, but the regulation I intend to refer to has the same effect as regulation 102. I quote from the *Daily News* of the 26th August, 1965, where, under the heading to which I have referred, it states—

The Federal Government would have done better to have withdrawn the regulation it invoked against the IPEC transport group—

The ACTING SPEAKER (Mr. Crommelin): I do not think that has anything to do with this case.

Mr. FLETCHER: If you would be good enough to listen to the subsequent paragraph I think you will agree, Mr. Acting Speaker, that it has. To continue—

—instead of suffering a defeat on this matter in the Senate last night.

I am drawing a parallel between the two regulations. The subleader continues—

The Government must have known it was in the wrong. It had introduced a regulation—

And this is the pertinent part.

—to circumvent the law—a shabby tactic for any democratic government to employ.

Mr. Curran: Hear, hear!

Mr. FLETCHER: The next paragraph reads—

By this regulation it barred IPEC from its legal rights—an appeal to the Privy Council.

Now you can see, Mr. Acting Speaker, the parallel I draw between the Commonwealth regulation, which cancels out the law, and regulation 102 which cancels out the provisions of the Marine Act. I think you will agree, Mr. Acting Speaker, my quote was pertinent to the issue before us.

Mr. Hawke: A very good point.

Mr. Court: A slight difference in the facts, though.

Mr. Hawke: No difference in principle.

Mr. Court: Yes there is. One is prescribing for a special Statute.

Mr. FLETCHER: I submit, as did the member for Cockburn the other evening, by way of interjection, that a small amendment to the marine Act could have achieved what the Minister is attempting to achieve by regulation 102.

I have made reference to the fact that we on this side will inevitably be defeated when the vote is taken on this motion. I noticed the other evening the member for Subiaco exalting in the disparity of numbers on the respective sides of the House. It is obvious he hopes to increase the numbers on the other side still further to give it, I submit, greater dictatorial powers.

One could only refer to this regulation as giving the Government dictatorial powers, because by it the lesser supersedes the greater in that a regulation is cancelling out an Act, irrespective of what the Minister has said to the contrary. I also submit that with such behaviour the mace develops less and less significance. If I remember rightly, history reveals that Cromwell said, "Out with this bauble"

Mr. Rowberry: Take it away.

Mr. FLETCHER: That is what he is quoted as having said. In effect he was saying that the Government and the King were hiding behind the mace; and I submit now that that Government's petty equivalent is indulging in similar tactics by refusing to act in a democratic way. I submit that the regulation does cancel out an Act of Parliament and, as the Deputy Leader of the Opposition said, it enables the Executive to ignore the law and those sitting on this side of the House and every person whom they represent.

As I have already shown, this has caused concern among the many interests I have mentioned, and to the member for Fremantle. I said when I moved the motion that the regulation was such that it made it possible for the Act to be torn up. I repeat that statement and I ask the House to support my opposition to regulation 102 so that it will not be permitted to lay upon the Table of the House.

Question put and a division called for.
Bells rung and the Committee divided.

Remarks During Division

The SPEAKER (Mr. Hearman): The vote of the member for Cockburn is to be recorded with the Ayes.

Result of Division

Division resulted as follows:—

Ayes—15

Mr. Bickerton	Mr. W. Hegney
Mr. Brady	Mr. Jamieson
Mr. Curran	Mr. Moir
Mr. Fletcher	Mr. Rowberry
Mr. Graham	Mr. Sewell
Mr. Hall	Mr. Tonkin
Mr. Hawke	Mr. Davies
Mr. J. Hegney	

(Teller)

Noes—22

Mr. Bovell	Mr. Lewis
Mr. Cornell	Mr. W. A. Manning
Mr. Court	Mr. Marshall
Mr. Craig	Mr. Mitchell
Mr. Dunn	Mr. Nimmo
Mr. Durack	Mr. O'Connor
Mr. Elliott	Mr. O'Neill
Mr. Grayden	Mr. Runciman
Mr. Hart	Mr. Rushton
Dr. Henn	Mr. Williams
Mr. Hutchinson	Mr. I. W. Manning

(Teller)

Pairs

Ayes	Noes
Mr. May	Mr. Nalder
Mr. Norton	Mr. Brand
Mr. Kelly	Mr. Crommelin
Mr. Evans	Mr. Burt
Mr. Rhatigan	Mr. Guthrie
Mr. Toms	Mr. Gayfer

Majority against—7.

Question thus negatived.

Motion defeated.

WESTERN AUSTRALIAN MARINE ACT AMENDMENT BILL (No. 2)

Second Reading—Defeated

Debate resumed, from the 18th August, on the following motion by Mr. Tonkin (Deputy Leader of the Opposition):—

That the Bill be now read a second time.

MR. ROSS HUTCHINSON (Cottesloe—Minister for Works) [8.51 p.m.]: I say at the outset, as I said at the outset of the previous motion, that the Government is opposed to this Bill. Paragraph (xviii) of section 17 of the Western Australian Marine Act, which the Deputy Leader of the Opposition now seeks to have repealed; was brought down at the time the Dutch dredges obtained a contract for the dredging of the channel through the Parmelia and Success Banks in Cockburn Sound, in Fremantle. These vessels

were manned by Dutch crews and carried seaworthy and safe dredging equipment certificates issued in Holland, which has a maritime board as strict as, if not stricter than, ours.

Holland has a great maritime tradition, and I do not think anyone would have the temerity to say that Dutch vessels are not well built, well found, and well equipped. When I say that, I mean compliance with safety provisions would be watched very closely indeed. At that time the same situation arose with the Cockburn Sound dredging project as has arisen with the iron ore projects in the Pilbara, except that the number of projects in the north-west and the Pilbara far exceeds the single project for which the regulation-making power was granted in 1952.

In that year it was appreciated that if the requirements of the Western Australian Marine Act were to be applied, these vessels would have to be slipped presumably in Fremantle or some other part of Australia, completely resurveyed, and certificates issued under the Act and with their officers being replaced by personnel holding British certificates, because no alien can hold a British certificate.

This would have had the effect of seriously delaying the development that was taking place in Cockburn Sound, and the Government decided to make a provision to exempt this project, and the personnel working on it from the requirements of the Act. That was 13 years ago, and it is interesting to note that until the present developments commenced no use has been made of this power, which has raised the ire of the Deputy Leader of the Opposition.

Mr. Fletcher: And the member for Fremantle.

Mr. ROSS HUTCHINSON: At a later stage I will speak more about similar powers being found in numbers of other Acts which are on our Statute book; something which the Deputy Leader of the Opposition said it was impossible for me to find for him.

Let us have a quick look at what would happen if Parliament were to pass the Bill introduced by the Deputy Leader of the Opposition. It would remove from the Act the regulation-making power, and would thus bring about a set of conditions whereby the projects in the north-west could not operate or make progress for a considerable period. Actually, it would have the effect of sabotaging the work that is going on; and surely that is not the wish of this Parliament!

As the Minister for Works at present I am not able to state just what was in Mr. Doney's mind when he made the statement which is recorded in *Hansard* and which has been repeated many times on many occasions by the Deputy Leader of the Opposition. However, to refer

the Deputy Leader of the Opposition and the House to the terms of the regulation-making power: The wording is quite clear and the powers are stated with great clarity. I think I should read them at this juncture. This paragraph (xviii), introduced in 1952, commences with the words "regulations may be made", and then follows the relevant paragraph (xviii)—

authorising the Department for the purpose of facilitating the carrying out of works, including dredging, in, or in connection with, a port, or for any other purpose, from time to time, to exempt from compliance with any of the provisions of this Act or of a rule, regulation or proclamation made pursuant to the provisions of this Act, a person or vessel or class of person or class of vessel, either generally or in particular circumstances, localities, and cases or for particular purposes, unconditionally, or subject to such conditions as the Department thinks proper to impose; and authorising the Department, at any time, to cancel an exemption wholly or in part, and to cancel, and from time to time waive, add to, and otherwise vary the conditions of an exemption . . .

These are the clear and unmistakable terms of the regulation-making power.

This was presented to Parliament in 1952; and, in the face of it, the Deputy Leader of the Opposition goes back to words that were announced by the Minister when introducing the Bill to amend the Western Australian Marine Act, when he said it was intended to use the Bill for the purpose of exempting the captain and officers of a vessel from the requirements of the Act. If they are not the exact words that were used they would be very close to them. On the words of Mr. Doney, he said that he construed this wording to mean that Parliament had no intention of granting wider powers than just that. I say again that I have just read to the House the clear and unmistakable powers given by Parliament at that time to facilitate works which could not be carried out without those powers being granted.

This power is now being used, 13 years later, to facilitate works in the Pilbara: works which could not be performed any other way than by granting exemption from the provisions of the Act. It is only a logical conclusion to say that the House, at this time, must have understood the powers that were given to the Government. Or surely the House would have objected to these clear and unmistakable terms. I am sure Parliament appreciated that the Government was being responsible on this occasion, and that it was not doing this because of any whim or fancy.

When introducing his amending Bill the Deputy Leader of the Opposition said that these powers could be invoked on

any whim or fancy of the Government of the day. Governments do not indulge in whims or fancies when they bring in and invoke powers of this kind. They are done for a good and specific reason. Furthermore, I do know—and I have been informed by the officers concerned at this time—that the Dutch vessels at the time were not surveyed; that their current Dutch certificates were accepted just as other certificates are being accepted at the present time.

I think it is section 34, Part IV, of the Western Australian Marine Act which empowers the Government by proclamation to exempt vessels from the necessity of having certificates of seaworthiness. I agree there are certain limitations. But this is a power that has been in the Act probably from its inception. So here we have a power by proclamation to exempt vessels from the necessity to have certificates of seaworthiness. Here we have a power which was in the Act before the one to which the Deputy Leader of the Opposition takes exception at the present time. What is more, we have done it by regulation, and regulations must be laid on the Table of the House for a period of time, and they become subject to the feeling of the House during that time.

This has been well exemplified by the fact that the member for Fremantle moved to disallow regulation 102. So Parliament was not being bypassed, as the Deputy Leader of the Opposition said. That is also in clear and unmistakable terms. It is not necessary to come to the House at all in the case of a proclamation; it is merely published in the *Government Gazette*.

The Deputy Leader of the Opposition also made an absolute feature of the fact that there is not a single example of such power anywhere in the world. He emphasised this over and over again. He emphasised it again tonight and, indeed, challenged me to produce examples. This, of course, can be very easily refuted and the challenge can be very easily met.

I would now like to quote from a circular issued by the Dock and Harbour Authorities Association of London which was received only as late as the 5th August last. Under the heading of Merchant Shipping Act, 1964, we find the following:—

The Act applies the provisions of the Merchant Shipping (Safety Convention) Act, 1949. Section 28 of this Act enables the Minister to exempt any ships or classes of ships from any requirements of the Rule for lifesaving appliances or any Rules or Regulations made under the Act either absolutely or subject to such conditions as he thinks fit.

Surely the Deputy Leader of the Opposition will not deny that the Merchant Shipping Act is the maritime bible of the British Commonwealth of Nations. Yet

here we have a principle of exemption in the bible of the British Commonwealth of Nations—the maritime bible.

Mr. Hawke: Would the Minister read that again please?

Mr. ROSS HUTCHINSON: Very well. It is as follows:—

Section 28 of this Act—

That is the Maritime Shipping (Safety Convention) Act—

—enables the Minister to exempt any ships or classes of ships from any requirements of the Rule for lifesaving appliances or any Rules or Regulations made under the Act either absolutely or subject to such conditions as he thinks fit.

Mr. Hawke: That does not prove your point.

Mr. ROSS HUTCHINSON: Why?

Mr. Hawke: Because it is not total.

Mr. ROSS HUTCHINSON: That may be so, but the Deputy Leader of the Opposition did not refer merely to the whole of the Act.

Mr. Tonkin: Oh yes he did!

Mr. ROSS HUTCHINSON: He referred to the principle. As members well know in many Acts there are provisions which could be the subject of other Acts. As a matter of fact the Deputy Leader of the Opposition has exhorted me that, instead of using the regulation-making power which is in the Western Australian Marine Act, I should make a special Act; that I should take out of the marine Act a special part. So this principle can apply to a part of an Act, that part being completely whole in itself but yet in the portmanteau of the whole Act. The principle is well and truly there. But this is only one.

Mr. Hawke: It is not a very good one.

Mr. Bickerton: The plot thickens.

Mr. ROSS HUTCHINSON: It is not a bad one for a start.

Mr. Hawke: A fair start, though a bit mediocre.

Mr. Court: He is keeping the good ones till the last.

Mr. ROSS HUTCHINSON: We will improve.

Mr. Bickerton: There must be another one there.

Mr. ROSS HUTCHINSON: So even in this first instance members will appreciate how flat the challenge of the Deputy Leader of the Opposition has been. In his speech the Deputy Leader of the Opposition also complained that Commonwealth officers were not allowed to board the ships in question. The situation is, that no Commonwealth Officer would go aboard, not because of the fear of being ordered off, but because the Department of Shipping and Transport previously advised the

Harbour and Light Department that as it was considered that these vessels were trading intrastate they did not come within their jurisdiction. However, the regional director and his staff are always ready to assist with officers and advice.

The statement of the Deputy Leader of the Opposition that an officer had no power to order armour-plate glass—and members may recall his statement—because of the regulation, combined with the fact that the Navigation Act did not apply, and that no-one had any power to order the reinstatement of glass because the ship had been guaranteed exemption from all the requirements of the law, is not according to fact and is utterly wrong. There have been two instances concerning vessels with ordinary glass, and as neither vessel came under the Commonwealth Act, no Commonwealth officer went aboard. One was a workboat destined to work in King Bay. On the final survey, one of the Harbour and Light Department surveyors found that a window was not properly fitted and made those concerned rectify the fault before the department would permit the boat to go to King Bay.

I pause at this point to show the House—which I feel sure will appreciate this—but more particularly to show the member for Fremantle, how departmental surveyors have operated in regard to safety measures, despite the fact that regulation 102 is a power used by the Government.

Mr. Fletcher: Tell that to the Merchant Service Guild. They are the ones who are worried.

Mr. ROSS HUTCHINSON: This Parliament is the public forum of Western Australia. The other instance concerns a tug which was locally built for King Bay, and was intended to tow a barge to that place. The surveyors found ordinary glass in a window of the wheelhouse, the excuse being that armour-plate glass could not be obtained. The department refused to allow the vessel to go to sea until the proper glass was used, and where that could not be obtained a steel shutter was to be fitted over the window to protect the glass from being broken by the sea. Here again is another example of how the work of the department goes on. There is nothing miraculous about it.

The Minister for Industrial Development mentioned that these officers do the same sort of work on board the foreign ships as they do on vessels that ply intrastate. Both of these vessels to which I have just referred have been surveyed by the Harbour and Light Department, and have complied with all the requirements of the marine Act as regards both surveying and manning. Again, the statement that all that is required is "Show your survey certificates" is not founded on fact. As stated in my remarks to the member for Fremantle, as well as being forced to produce current certificates from

reputable authorities, such as the Norwegian Veritas, the American Bureau of Shipping, and Lloyds, the surveyors inspected the craft before any exemption was issued.

I would like members to note, firstly, that exemptions last for 12 months; then they are reviewed in the light of the circumstances applying, and further regard will be had for all factors. In the second place, I make further reference to the challenge that was thrown at me by the Deputy Leader of the Opposition that no examples could be given to exemplify the principle—and he said he stood by principle—in the marine Act. I have already given examples in the marine Act and the navigation Act, but for good measure I can inform the Deputy Leader of the Opposition that without great difficulty I have discovered other examples in our own laws. I refer to the Country Towns Sewerage Act, the Land Drainage Act, the Inspection of Machinery Act, the Health Act, and the Fisheries Act. Some of these Acts were administered by the Deputy Leader of the Opposition when he was a Minister of the Crown.

Mr. Tonkin: Not one of them gives power to set the Act aside.

Mr. ROSS HUTCHINSON: Repeat that again?

Mr. Tonkin: Yes, the whole Act.

Mr. ROSS HUTCHINSON: More of this anon. I thought the honourable member spoke on principle.

Mr. Hawke: No, on the total Act.

Mr. ROSS HUTCHINSON: The total Act is not set aside in regulation 102.

Mr. Hawke: It is in respect of particular ships.

Mr. ROSS HUTCHINSON: Yes. That is what I want to show. I refer to the Fisheries Act. Section 4, which contains the marginal note, "Power to exempt from Act," reads—

The Governor may from time to time, by proclamation, exempt any portion of Western Australia from the operation of this Act, or any of the provisions thereof, and may in like manner revoke such proclamation.

I suppose the Deputy Leader of the Opposition will say this does not apply to the whole Act. Let him listen to that provision again—

The Governor may from time to time, by proclamation, exempt any portion of Western Australia from the operation of this Act, or any of the provisions thereof, and may in like manner revoke such proclamation.

I say that regulation 102 is made under the regulation-making provision of the Act which the Deputy Leader of the Opposition seeks to remove. Further, the regulation had to be laid on the Table of the House, where it went through whatever operations a member of Parliament

might like to bring forward, such as the one introduced by the member for Fremantle.

I would point out that the Government can grant exemption from surveys by proclamation, without reference to Parliament. On the question of principle, the Deputy Leader of the Opposition said there has never been a case anywhere in the world where any Parliament was so much bypassed as the Parliament of this State.

Mr. Tonkin: I still say that.

Mr. ROSS HUTCHINSON: We have had the example of the member for Fremantle moving to disallow the regulation. The Deputy Leader of the Opposition might well shake his head. So much for the Fisheries Act.

Mr. Hawke: The member for Fremantle only moved after the Government had given an exemption from the whole of the Act.

Mr. ROSS HUTCHINSON: I was referring to what the Deputy Leader of the Opposition had said: that there was no reference to Parliament as a result of what had been done.

Mr. Hawke: He did not say that.

Mr. ROSS HUTCHINSON: He said that Parliament was being bypassed. The Leader of the Opposition is trying to play on the words used by the Deputy Leader of the Opposition, but he was not here at the time.

I now refer to the Health Act, which is an important one. Section 6, with the marginal note, "Power to suspend operation of the Act," provides—

(1) The Governor may, by proclamation, suspend the operation of any of the provisions of this Act in any district or a part thereof for any period.

Virtually the same applies to the Inspection of Machinery Act, the Land Drainage Act, and the Country Towns Sewerage Act.

I now come to two rather interesting Acts, the first of which is the Marketing of Barley Act, passed in 1946. The Bill was introduced by a Labor Government. Section 3 of the Act states—

Subject as hereinafter provided, this Act shall operate and have effect throughout the State:

Provided that the Governor may, on the recommendation of the Minister, from time to time by proclamation exempt any part of the State defined in such proclamation from the operation of this Act, and may, on the like recommendation, by proclamation revoke or vary any such first-mentioned proclamation.

There we have a law which has been accepted by Parliament, and which contains a provision enabling the law to be set aside in any part of the State that is determined or defined by proclamation.

Mr. Hawke: That would apply totally to any particular part of the State.

Mr. ROSS HUTCHINSON: I have just said that it does so. This is another Bill.

Mr. Hawke: The action of your Government applies to some ships in a certain part of the State but not to others.

Mr. ROSS HUTCHINSON: For special reasons.

Mr. Hawke: It is not comparable.

Mr. ROSS HUTCHINSON: The Leader of the Opposition helps make the point why the Government needs this power. These things are only placed in laws to facilitate the working of government and to cater for special circumstances. At the time of writing an Act—I do not have to tell the Leader of the Opposition these things—it is not always possible to foresee all the contingencies that will arise. Therefore Ministers from a Labor Government, or a Liberal Government, introduce this principle into an Act. Anyway, thanks for the interjection; it helped quite a deal.

In the Marketing of Potatoes Act we have the same principle. Section 4 reads as follows:—

Subject as hereinafter provided, this Act shall operate and have effect throughout the State:

Provided that the Governor may, on the recommendation of the Minister, from time to time by proclamation exempt any part of the State defined in such proclamation from the operation of this Act, ...

Mr. Hawke: A complete exemption for the part defined.

Mr. ROSS HUTCHINSON: Under this, I take it, a Minister could define 99.9 per cent. of the State. How far does this principle go? Is the Deputy Leader of the Opposition going to get away on .1 per cent where I might be wrong and he might be right?

As a matter of fact, the .1 per cent is usually the fragment of truth or the fragment of fact on which the Deputy Leader of the Opposition so frequently builds a case. He usually uses a small foundation of doubtful quality anyway; and from this small foundation he builds up a tottering edifice of a case which sounds very well if one does not examine the whole; and new members may well think, when they listen to him: How can this case be answered? My colleague, the Minister for Police, when the Deputy Leader of the Opposition was talking on a previous occasion leaned across and jokingly said, "How can you answer that?" The Deputy Leader of the Opposition attempts, like Goldsmith's village schoolmaster, to make people wonder how much knowledge he has in his head. I quote—

And still the wonder grew that one small head could carry all he knew.

Mr. Hawke: The Minister for Police deals with arguments put up by the Deputy Leader of the Opposition by avoiding them.

Mr. Craig: He deals with them very well, thank you.

Mr. Hawke: By dodging them.

Mr. ROSS HUTCHINSON: The two Acts I mentioned were introduced by a Labor Minister in the Labor Government in 1946; and the Minister was the Minister for Agriculture, who, at that time, was none other than the Deputy Leader of the Opposition.

Mr. Hawke: To deal with perishable products.

Mr. ROSS HUTCHINSON: This is the man—

Mr. Hawke: No.

Mr. ROSS HUTCHINSON: You should go back to South Australia if you are going to speak foolishly.

Mr. Hawke: Barley is perishable, especially in liquor form.

Mr. ROSS HUTCHINSON: The man who challenged me to find principles, introduced the Bills containing the very same principle. So how foolish can he be?

Mr. Hawke: Perishable products.

Mr. ROSS HUTCHINSON: This provision is put into Acts irrespective of whether it is a Liberal-Country Party Government or a Labor Government in power. I go so far as to say that even a Labor Government would exercise this power with responsibility.

Mr. Hawke: Hear, hear!

Mr. ROSS HUTCHINSON: Certainly the present Government is exercising this power with responsibility to facilitate works that are essential in the interests of the State.

I trust the tottering edifice which the Deputy Leader of the Opposition has built to bolster his case will be seen by members for what it is worth—that is, virtually nothing.

Mr. W. Hegney: How is he going to answer that?

Mr. ROSS HUTCHINSON: The Government opposes this Bill.

MR. TONKIN (Melville—Deputy Leader of the Opposition) [9.25 p.m.]: Mr. Speaker—

Mr. Craig: How are you going to answer this one?

Mr. TONKIN: If the Minister will be patient I will answer this.

Mr. Court: We want the answer to the 1946 one early. We are agog to hear.

Mr. TONKIN: So we will know exactly where we are going, let us get the record straight. I shall reiterate the challenge

which I made to the Minister and which he considers he has successfully answered. I quote from *Hansard*, p. 409, as follows:—

I shall repeat the challenge, which is to the Minister and the Premier: that they cannot find anywhere in a democratic country an example to equal this one, where a regulation-making power is provided in a law to enable the law to be set aside.

Mr. Ross Hutchinson: I just quoted many of them.

Mr. TONKIN: No you did not. I listened carefully to all the examples submitted by the Minister, and the first example he quoted with regard to shipping did not give anybody power to set the whole Act aside; it gave power to set aside a few regulations—a very different matter. So we can put that aside.

The other instances mentioned were Marketing Acts. I could have given him one or two more—the Marketing of Wheat Act—

Mr. Ross Hutchinson: And the Health Act.

Mr. TONKIN: —where power is given to provide that the Act shall only apply in toto to certain areas. That is not power to wipe the Act completely aside so far as the State is concerned. Despite the fact that the Act says, "This Act shall bind the Crown"—that is what Parliament said—the regulation puts into the hands of the Executive the power to say it shall not bind the Crown—not any part of it—nor shall it bind any person or class of persons or any vessel or class of vessel which the Executive decides to exempt, but it shall apply to everybody else.

I repeat: Neither the Minister nor anybody else can produce an example here where in a democratic country power is completely put in the hands of the Executive to set the power of Parliament aside as regards the whole of the State over which it has jurisdiction.

Mr. Ross Hutchinson: You come back to Parliament and put the regulations on the Table.

Mr. TONKIN: Not a single example submitted by the Minister is comparable to the existing one.

Mr. Ross Hutchinson: 99.9 per cent.

Mr. TONKIN: Does the Minister think that having introduced marketing legislation like the Marketing of Potatoes Act and the Marketing of Eggs Act I would not be aware of the necessity to ensure that the Act should not apply to certain sections of the State?

Mr. Ross Hutchinson: You never would have said—

Mr. TONKIN: That is a different matter entirely from the one with which we are dealing.

Mr. Ross Hutchinson: My argument will be directed completely to a question of principle.

Mr. TONKIN: But not that principle. The principle with which I am dealing—

Mr. Ross Hutchinson: You change your principle.

Mr. TONKIN: Oh no I do not! The principle with which I am dealing is the one enunciated by the Premier. It reads—

It is worth remembering, especially at this time in our history, that when the influence of Parliament is diminished in any way or for any reason, the first casualty is the freedom of the people.

Mr. Ross Hutchinson: That is done with many actions.

Mr. TONKIN: That is a principle for which I am fighting and which the Premier stated publicly in this House and also in his weekly article in *The West Australian* was his belief. Anyone holding those views cannot subscribe to an action which places in the hands of the Executive the power completely to set an Act of Parliament aside with regard to special classes and special persons, despite the fact that section 6 reads—

Subject to the provisions of section five of this Act, the provisions of this Act bind the Crown.

The regulation makes a farce of that—makes an absolute farce of it! What on earth is the good of Parliament inserting in an Act that it shall bind the Crown if it gives to the Executive the power to completely exempt the Crown from all or any of the provisions of the Act? It just does not make any sense.

Mr. Court: What about when a proclamation exempts a whole part of the State? It could be the whole of the State for all practical purposes.

Mr. TONKIN: I would remind the Minister that in time of war and great national emergency a special Act is passed setting out the conditions under which certain Acts of Parliament may be set aside, and those powers are clearly circumscribed. The member for Perth would know there have been hundreds of cases where Acts have been set aside and people have challenged the right of the Government to do it and have got judgments against the Government because the Government had exceeded its powers.

Under this no action could be taken against the Government for exceeding its powers because its powers are unlimited. This amendment gives the Executive unlimited power completely to set aside an Act.

Mr. Ross Hutchinson: That is wrong.

Mr. TONKIN: I know it is against the rules, Mr. Speaker, but I would not mind if you let the Minister prove it.

Mr. Ross Hutchinson: You know—

The SPEAKER (Mr. Hearman): No. Order! Not a third speech!

Mr. TONKIN: It is all right to say it is wrong. That is so easy.

Mr. Ross Hutchinson: What did the member for Fremantle move a moment ago? It came back to Parliament.

Mr. TONKIN: That has nothing to do with this point.

Mr. Ross Hutchinson: You would like to think it hasn't.

Mr. TONKIN: Nothing to do with it.

Mr. Ross Hutchinson: Yes it has. If Parliament had supported the member for Fremantle it would have taken complete control of the Act.

Mr. Fletcher: If you want me as an ally you should have supported my motion.

Mr. TONKIN: In the meantime, while Parliament is not sitting the Executive has completely set the Act aside, and no-one can prevent it.

Mr. Court: What about the legislation of yours where the Government issued a proclamation and Parliament had no redress?

Mr. TONKIN: I have yet to learn of that legislation.

Mr. Ross Hutchinson: The Factories and Shops Act was—

Mr. W. Hegney: The Electoral Districts Act, where you would not issue the proclamation.

Mr. TONKIN: Just imagine the Minister saying that Parliament has no redress. It would have the same redress as it has in connection with a regulation.

Mr. Court: It would have to put through a new Bill.

Mr. TONKIN: No; it would not.

Mr. Court: Yes it would.

Mr. TONKIN: All it would have to do if a proclamation was irksome and unfair would be to move, in the House, a motion of no confidence in the Government for advising His Excellency to issue it, and if a majority supported the move, the situation would be precisely the same as with a regulation.

Mr. Ross Hutchinson: Is that better than regulations; is it?

Mr. TONKIN: Now the Minister is off on another track.

Mr. Fletcher: You can always amend an Act.

Mr. Bovell: You can always disallow regulations too.

Mr. Hawke: The Minister was a rover when playing football, and he is still a rover!

A Government member: Mostly on the ball though!

Mr. Hawke: On the pill!

Mr. TONKIN: On this matter I am dealing strictly with the question as to whether a democratic Parliament, when it has the matter brought to its notice, ought to be content to place in the hands of the Executive the complete power to set an Act of Parliament aside despite the fact that the Act is supposed to bind the Crown. That is all that is at issue in this.

I dealt with the particular case of safety on the motion, but I am dealing with this because I am in a democratic Parliament and I agree with the words of the Premier with regard to this. The following quotation from the Bill of Rights of 1869 is, I think, germane:—

The pretended power of suspending laws by Regal authority without the consent of Parliament is illegal.

That was brought about because the kings thought, when it suited them, that they should push a law aside completely, and so it was written into the Bill of Rights that the pretended power to do that was illegal.

That brings us back to the situation we are in now, and although I take my share of the responsibility for allowing this to go into the law originally, as soon as I became aware of its full implications, I felt some action had to be taken in order to rectify the position.

I was somewhat surprised to read the argument of the Minister with regard to the original power which was put into this Act and how he sought to get around the undertaking given by the Minister that this was only for the purpose of granting a certificate to the master. He said that in Holland the conditions were much more stringent than they are here for the surveying of ships and that if one obtained a certificate of survey in Holland it would be worth more than one obtained here. Those were not his words, but that is what he meant.

If we take that as true—and I do not know whether it is true or not—it is all the more remarkable that the Minister told Parliament that he would still not exempt these Dutch vessels from survey.

It is a very strange thing that, if the conditions of survey are so much more stringent in Holland, when the Minister brought the Bill here to amend the marine Act, he did not say that because the conditions are so much more stringent in Holland a survey would not be insisted on in Western Australia. He said the opposite. I quote what he did say from page 2590 of the 1952 *Hansard*, as follows:—

It would seem to be wrong that people from Holland, which is a very friendly neighbour of the Old Country, should be regarded as aliens, but the Dutch people know our laws and realise that no affront is intended. In the circumstances it is proposed, by

the Bill, to provide exemption for the masters—that is to say the masters and other officers—of the dredges to which I referred a little while ago while the vessels are operating in Cockburn Sound.

Now, Mr. Speaker, take note of this section—

It is not intended to exempt the vessels from the surveying requirements of the Act.

I would ask members to cast their minds back to the time when the Minister was in charge of the Bill. I assume that he was aware of what the present Minister is aware of: that the Dutch have very stringent conditions with regard to survey. He did not say that although he was taking this all-embracing power to set the Act aside, he was going to do that. What he did say was that he was only seeking power to allow the master and his officers to have a certificate of competency; and then, to make it doubly certain, he said it was not intended to exempt vessels from the survey requirements of the Act.

The Minister would have us believe that all the time the then Minister was saying those words he had in mind there were provisions in the existing law which would enable him to grant exemption from survey. The gentleman is now dead, and I think we have to accept what he told the House at the time as his real and genuine intention and that he was not practising any chicanery. If it were that he was assuring Parliament he was not going to grant exemption from the survey requirements of the Act, and all the time he had it at the back of his mind that he was going to, then to what level are we sinking in our government when we countenance conduct of that kind?

I do not for one minute believe that that was the intention of the then Minister. However, in order to bolster up his argument, the present Minister casts a slur on him by suggesting that that was his intention. Probably the Government will use its numbers, but, I say, to the eternal shame of every member who votes against this motion.

Mr. Ross Hutchinson: On the contrary.

Mr. TONKIN: To the eternal shame! We are face to face with a situation where the Executive is placed in complete control and without any rules or regulations set down at all and is allowed, whenever it suits, for special persons and special classes, to set an Act of Parliament aside and to exempt certain areas and say that the Act shall not apply in those areas or to anybody in that area. There is nothing new in that principle.

When we introduce a Bill to deal with people who pick wildflowers we do not make it cover the whole of the State.

When we class certain animals as vermin we do not cover the whole of the State. We do not take power to say that Bill Smith can shoot wild turkeys in a certain area, but Tom Brown cannot. That is what is involved in this. This regulation gives the Executive power completely to set the Act aside for special persons and special classes and special ships, leaving the Act to apply to others.

I repeat, the Minister cannot give me a single example where that applies anywhere else in a democratic country. Because he cannot, and because I disagree absolutely with this—and I will always fight it when it comes before me—I strongly urge this Parliament to assert the supremacy of Parliament and to remember the words of the Premier. If he did not mean them when he quoted them, he was a hypocrite. If he did mean them, I would expect his followers to heed them and I agree with them absolutely. Those words are as follows:—

It is worth remembering, especially at this time of our history, that when the influence of Parliament is diminished in any way or for any reason, the first casualty is the freedom of the people.

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

Ayes—15

Mr. Bickerton	Mr. W. Hegney
Mr. Brady	Mr. Jamieson
Mr. Curran	Mr. Molr
Mr. Fletcher	Mr. Rowberry
Mr. Graham	Mr. Sewell
Mr. Hall	Mr. Tonkin
Mr. Hawke	Mr. Davies
Mr. J. Hegney	

(Teller)

Noes—22

Mr. Bovell	Mr. Lewis
Mr. Court	Mr. W. A. Manning
Mr. Craig	Mr. Marshall
Mr. Crommelin	Mr. Mitchell
Mr. Dunn	Mr. Nimmo
Mr. Durack	Mr. O'Connor
Mr. Elliott	Mr. O'Neill
Mr. Gayfer	Mr. Runciman
Mr. Hart	Mr. Rushton
Dr. Henn	Mr. Williams
Mr. Hutchinson	Mr. I. W. Manning

(Teller)

Pairs

Ayes	Noes
Mr. May	Mr. Nalder
Mr. Norton	Mr. Brand
Mr. Rhatigan	Mr. Guthrie
Mr. Evans	Mr. Burt
Mr. Kelly	Mr. Cornell
Mr. Toms	Mr. Grayden

Majority against—7.

Question thus negatived.

Bill defeated.

House adjourned at 9.51 p.m.

Legislative Assembly

Thursday, the 2nd September, 1965

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The SPEAKER (Mr. Hearman) took the Chair at 2.15 p.m., and read prayers.