

The MINISTER FOR RAILWAYS: Yes. After they have done so many hours, they can apply, and will be put through an examination by an inspector and granted a certificate. It is not a tough examination, but one which involves common knowledge and commonsense. I have no objection if the House, or Mr. Simpson desires to proceed with the Committee stage.

Hon. J. M. A. Cunningham: I would like to make a few brief comments on this Bill.

The PRESIDENT: Order! The debate has closed.

Question put and passed.

Bill read a second time.

In Committee.

Hon. E. M. Davies in the Chair; the Minister for Railways in charge of the Bill.

Clauses 1 and 2—agreed to.

Clause 3—Section 53 amended:

On motions by Hon. C. H. Simpson, clause amended by—

Inserting after the word "Railway" in line 17, page 3, the words "where crossing such railways is regulated by mechanical and/or electrical signal devices."

Inserting after the letter "A" in line 17, page 3, the word and letter "or B."

Inserting after the word "Act" in line 19, page 3, the words "and has given proof of sufficient knowledge of the signal code relating to traffic using such railway."

Clause, as amended, agreed to.

Clauses 4 to 6, Title—agreed to.

Bill reported with amendments.

House adjourned at 9 p.m.

Legislative Assembly

Tuesday, 2nd October, 1956.

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

QUESTIONS.

SHOW WEEK.

Sittings of the House.

The PREMIER: Last week the member for Stirling asked for information as to the days on which the House might be asked to sit during Royal Show Week. At a meeting of Cabinet held yesterday, it was decided to ask members of the Assembly to sit on the Tuesday and the Thursday at the normal time, but there will be no sitting on Wednesday, which is People's Day.

ADMINISTRATION ACT.

Wrongful Assessment of Probate Duty.

Mr. OLDFIELD asked the Treasurer:

(1) Is it a fact that since the Administration Act was amended last year probate duty on estates of persons dying after the passing of the amendment has been assessed and collected by the Commissioner of Stamps on the basis that the full rate of duty is payable by all beneficiaries except widows and children under 16 years?

(2) Is he aware that at the beginning of last month (August) an appeal against such method of assessment was heard by the court, and upheld?

(3) Does not the court's decision show that certain beneficiaries, being husbands, children or parents of a deceased person, have been wrongly assessed at the full rate of duty and have therefore paid too much duty?

(4) Is it a fact that despite the court's decision, the persons who prior to the 1st August last were over-assessed are refused a refund of the overpayment, unless they objected to the assessment at the time?

(5) Can he inform the House why persons who have paid too much duty without objecting are refused a refund of the amount overpaid?

(6) Does not Section 105 of the Administration Act make it mandatory for the Commissioner of Stamps, on being satisfied that too much duty has been paid, to order that the amount overpaid be returned to the person entitled to receive it?

(7) In any case is it just and equitable that some of the persons who have been wrongly assessed and because of such wrong assessment have paid too much duty should be granted a refund, while others are refused it?

(8) Will he instruct the Commissioner of Stamps that, on application being made by any person who has paid too much duty owing to wrongful assessment due to misinterpretation of the abovementioned amending Act, he is to refund to such person the amount of duty overpaid?

(9) If not, why not?

The TREASURER replied:

(1) Yes.

(2) Yes.

(3) Yes, in the sense that the legal interpretation of the relevant legislation has been held by a court to be incorrect.

(4) Yes.

(5) The question as to what was the right amount of duty is determined by the view of the law as accepted at the time of the payment of the duty, notwithstanding that it appears from a subsequent legal decision that the view may have been wrong. (13 Halsbury, para. 321).

(6) Yes, but see answer to No. (5).

(7) The law must be administered as it stands.

(8) and (9) Parliament has defined the commissioner's duties.

LANDS.

(a) *Resumptions, Mt. Yokine-Wanneroo Area.*

Mr. OLDFIELD asked the Minister for Housing:

(1) How many separate holdings were resumed in the Mt. Yokine-Wanneroo area, and what acreage was involved?

(2) How many owners had their land resumed without prior negotiation?

(3) How many owners have had their compensation claims finalised and on what basis?

(4) How many owners have yet to be compensated?

(5) In view of the values being upset by the court following the claims brought by Estates Development Co., what is the position of all the owners not yet compensated?

(6) Are all outstanding claims to be compensated at present day valuation or that obtaining at resumption date?

The MINISTER replied:

(1) (a) 764 separate holdings.

(b) 7,700 acres.

(2) All owners.

(3) 614 owners have had their compensation claims finalised on the basis set out in Section 63 of the Public Works Act.

(4) 150 owners are yet to be compensated and of these, 142 have not made any claim.

(5) Settlement of claims outstanding will be subject to negotiations with owners concerned on the basis of Section 63 of the Public Works Act according to the merits of each case.

(6) Date for valuation of all outstanding claims is the 1st July, 1950, as prescribed by the Public Works Act.

(b) *Government Conditions for Esperance Project.*

Mr. BOVELL (without notice) asked the Premier:

(1) Will he give details of the 14 conditions required by the Government in connection with the proposal to grant an area of land in the Esperance district to United States of America interests?

(2) If the answer is in the negative, will he give the House a broad outline of these proposals?

The PREMIER replied:

At this stage I prefer not to go into details or even to give any broad outline of the proposals.

POULTRY PROCESSORS.

Licensing, Supervision, etc.

Mr. COURT asked the Minister for Health:

(1) What licensing under local government authorities' and other statutes is there of poultry processors who kill, pluck, dress, clean and sell poultry in its several forms?

(2) What supervision is there by the Government health authorities, factories and shops inspectors and local government authorities over such poulterers in the metropolitan area?

(3) Is he satisfied that the conditions prevailing are satisfactory?

(4) Is any attempt being made to achieve a uniform set of by-laws or regulations covering construction of premises and operating requirements in districts of all local authorities?

(5) Do State Government purchasing conditions for consumption in State institutions specify any requirements as to type of premises or supervision of operations?

(6) Is a separate system of licensing and inspection maintained by the Commonwealth for its local purchases and export?

The MINISTER replied:

(1) Poultry killing is an offensive trade under the Health Act; therefore such premises must be registered with the local health authority.

(2) Local authority inspectors supervise the general sanitary condition of the premises. The Factories and Shops Department supervises the working conditions of any employees.

(3) The prevailing conditions are reasonably good. No serious complaints have been referred to the Public Health Department.

(4) Yes. Draft by-laws are now being investigated.

(5) Government purchases are usually made from known and reputable dealers. If unknown, the premises would be investigated.

(6) Yes.

VERMIN RATE.

Use of Revenue.

Mr. BOVELL asked the Treasurer:

For what purposes was revenue from the vermin rate utilised for each year from the 1st July, 1954, to the 30th June, 1956?

The TREASURER replied:

Revenue from the vermin rate for the years 1954-55 and 1955-56 was utilised as follows:—

	1954-55 £	1955-56 £
Bonuses on destruction of vermin	21,947	16,191
Wages and Allowances to Group Inspectors and Doggers	40,925	44,736
Plant, Poisons, Bait	5,177	3,744
Research	5,090	3,587
Motor Vehicle Subsidies (less repayments)	1,514	11
Contribution to Argentine Ant Fund	4,000	4,000
Sundries	1,120	2,485
	<u>79,773</u>	<u>74,754</u>

The revenue derived under the Vermin Act amounted to £79,437 in 1954-55 and £87,919 in 1955-56, the surplus being held in the Vermin Act Trust Fund.

HOSPITALS.

Edward Millen Home.

Mr. COURT asked the Minister for Health:

(1) Is the Edward Millen Home still conducted as a convalescent home for ex-servicemen undergoing treatment for t.b.?

(2) Are negotiations proceeding between the Commonwealth and the State for the home to be taken over by the State?

(3) (a) If so, what use is proposed by the State Government for the site;

(b) what alternative facilities are proposed for the ex-servicemen?

The MINISTER replied:

(1) Yes.

(2) The State has written to the Commonwealth requesting that the home be made available to the State for a general hospital.

(3) (a) Answered by No. (2).

(b) It has been suggested that when the new chest hospital is completed, the combined resources of the State and the Commonwealth would be sufficient for the needs of ex-servicemen.

ROBBS JETTY ABATTOIR.

Personnel, Control, etc.

Mr. NALDER asked the Minister for Agriculture:

(1) If there is not a board in charge of the Robbs Jetty abattoir, as indicated in the reply to my question last Thursday, what duties are performed by the Director of Agriculture and the Under Treasurer in their weekly visits and meetings at the Robbs Jetty premises?

(2) If they act as a committee of management or something similar, to what extent does this management, control or intervention in the affairs at Robbs Jetty differ from that of the board at Midland Junction?

The MINISTER replied:

(1) There are two organisations operating at Robbs Jetty—

(a) The West Australian Meat Export Works is a trading concern operating under the Trading Concerns Act, and carries on business under Act No. 24 of 1942 as stock buyers and meat exporters, cold storage and freezing works. These works have more cold storage than all other works in the State and cater for the export trade in meat, apples, crayfish, eggs, milk, butter and other perishable exports.

Prior to becoming a Government trading concern at the request of the producers and on the recommendation of the Under Treasurer, these works were conducted by a limited

company of producers, and became heavily indebted to the Government.

The Under Treasurer was a director of the company to watch the financial interests of the Government, and he has continued to keep in contact with the development and financial side of this undertaking.

The ministerial head of this trading concern is the Minister for Agriculture.

- (b) The abattoir rents accommodation at Robbs Jetty and carries on operations under the Abattoirs Act, No. 31 of 1909, of slaughtering stock owned by butchers operating in the Fremantle area for sale of meat through butchers' shops to the public.

The Abattoirs Act is administered by the Minister for Agriculture, and the Director of Agriculture, as administrative head of the department, occasionally visits the works for administration purposes.

- (2) The Midland Junction Abattoir was placed under a board of management in 1952 by Act No. 58 of 1952.

Since the Act became operative, the affairs of the Midland Junction Abattoir has been conducted by the board, subject to the control of the Minister for Agriculture.

The abattoir at Midland Junction kills stock only for butchers engaged in the local meat trade, and has no facilities or organisation for export.

HEALTH.

(a) Priority of Poliomyelitis Immunisation.

Mr. GRAYDEN (without notice) asked the Minister for Health:

- (1) Is the decision of the Public Health Department to defer immunisation of the South Perth zone from November-December until February in favour of beach areas between South Fremantle and Safety Bay final or is it only a tentative one?

- (2) In view of the facts that—

- (a) Several thousand children from areas south of the river normally swim at Como Beach;
- (b) children have been discouraged from swimming at this beach for the last two years because of the polio threat;
- (c) traders in the area have in some cases been forced out of business because of the official warning against swimming at the beach during the last two years;

- (d) traders in the area face further losses as a result of the impending developmental work on the foreshore in connection with the proposed Perth-Kwinana highway; and

- (e) children will be prevented from using the beach during the forthcoming swimming season and traders will again have to close their businesses unless the immunisation is carried out,

will he reconsider the latest decision and vaccinate the South Perth zone children as planned—before December?

- (3) Is there any possibility of obtaining additional supplies of the Salk vaccine necessary to ensure that both the South Perth zone and the South Fremantle-Safety Bay zone are completed by December?

The MINISTER replied:

The hon. member was good enough to advise me of his questions in advance and the answers are as follows:—

- (1) It is a firm decision.
- (2) No.
- (3) No.

(b) South Perth Meeting Regarding Government Decision.

Mr. GRAYDEN (without notice) asked the Minister for Health:

Arising out of replies to my previous questions, I should like to ask the Minister—

- (1) Is it the intention of the Government to endeavour to obtain additional supplies of Salk vaccine?

- (2) Is he aware that a meeting of representatives of various organisations in South Perth has been convened for next Thursday night for the purpose of discussing the new decision?

- (3) Has he, or an officer from the Health Department, been invited to attend the meeting?

- (4) If an officer from the department attended the meeting, would he have power to alter the decision which has been made if the meeting convinced him that such an alteration was warranted?

- (5) Would he be prepared to receive a deputation from the meeting if such a course of action is decided upon?

The MINISTER replied:

- (1) Yes.
- (2) Yes.
- (3) No.
- (4) No.
- (5) Yes, I will be only too pleased to receive a deputation.

BILL—POLICE ACT AMENDMENT.

Introduced by the Minister for Police and read a first time.

BILL—HEALTH ACT AMENDMENT.

Read a third time and transmitted to the Council.

BILL—PROFITEERING AND UNFAIR TRADING PREVENTION.

In Committee.

Mr. Moir in the Chair; the Minister for Labour in charge of the Bill.

Clause 1—agreed to.

Clause 2—Arrangement:

Mr. COURT: This clause is appropriate to explain the attitude of the Liberal members of the Opposition towards amendments to this Bill.

The Premier: Liberal Party members.

Mr. COURT: If the Premier prefers it that way, I am prepared to say those Liberal Party members who sit in support of the Leader of the Opposition on this side.

The Premier: Everybody is now happy.

Hon. D. Brand: You have to be specific when dealing with names like Labour and Liberal these days.

Mr. COURT: To avoid misunderstanding, it is important that I clarify our attitude. It is not our intention to move amendments to this measure. We feel the Bill is so bad in its conception that it is undesirable to attempt to amend it and, indeed, it would be incapable of amendment which would make it fair and workable. There is an old saying that one cannot shake hands with a cobra, and that is how we feel on this measure. We will participate in the debate that proceeds, but we do not want to be misunderstood by anyone thinking we are supporting the Bill.

Mr. May: You are giving up the ghost!

The CHAIRMAN: Order!

Clause put and passed.

Clauses 3 to 6—agreed to.

Clause 7—This Act applies to the Crown in right of the State:

Mr. COURT: I would like the Minister to clarify the intention of the clause and the circumstances under which he feels it would apply in its operation. Does it mean that Government instrumentalities are to be bound by the measure and that they will come under the jurisdiction of the commissioner, or has it some other significance.

The MINISTER FOR LABOUR: I know of no other legal significance. The Act should apply to the Crown and a Government instrumentality. A classic example of this is that the State Electricity Commission, during price control, did not fix the price of gas and electricity without reference to the Prices Commissioner when certain prices were agreed upon. If this clause had been left out, the Liberal

Party would have been anxious to place it in the Bill. The Government therefore decided that Government instrumentalities should be bound by the provisions of the measure.

Mr. COURT: The Minister has not fully answered the question I posed. He says that Government instrumentalities are to be subject to the provisions of the Act. But does he mean that any cases of unfair competition between the Government and private tenderers will be dealt with by the commissioner? What would his attitude be if the commissioner said that this or that department had been unfair in its competition against a tenderer or private trader and that he proposed to take action? Would the Government allow him to take such action?

I have in mind the case of a tender submitted by a Government instrumentality which was accepted by the Tender Board though it was higher than that submitted by a private tenderer. If that is not unfair competition, I do not know what is. In that case the Government said, "On reviewing the price submitted by the Government instrumentality we found that it included some profit and therefore the net price to us is that price less the profit, and we will therefore give the tender to the Government instrumentality." Would the commissioner consider that to be unfair competition?

The Premier: That is for him to decide.

The MINISTER FOR LABOUR: I am not fully cognisant of the case to which the member for Nedlands refers, but I do know that he has extended himself on it for quite some time. I am not prepared to commit myself as to what my attitude might be in what is after all a hypothetical case. Suffice it to say that the commissioner would be empowered to deal with any complaint submitted to him, and he would act in accordance with the provisions of the measure.

Mr. JOHNSON: The matter to which the member for Nedlands referred is, firstly, one which would not come under the control of this measure because, as most businessmen are aware, the acceptance of tenders lies in the hands of the person calling for them. So the hon. member's proposition is not logical. Not necessarily the lowest tender is accepted.

Mr. Court: All things being equal, the lowest tenderer gets preference.

Mr. JOHNSON: The State Engineering Works is a subsidiary of the Government and if it is found that in the net result its tender is the lowest, then it is natural that that tender would be accepted. That is normal business practice.

Mr. Court: In that case, you do not agree with the Premier. He said this would be a matter for the commissioner.

Mr. JOHNSON: I do not know to which commissioner he was referring.

Mr. Roberts: There is only one under this Bill.

Mr. JOHNSON: We were not dealing with this clause at the time. The point is illustrated by an organisation known as Wagon Timber Constructions, which consists of a close ring of sawmilling interests, including the State Saw Mills. As we know that particular ring was originally organised to mulct the Government in relation to a contract for the construction of railway wagons during the time of the previous Government, and the proportion of profit which rebounded to the State instrumentality on that occasion was quite considerable.

Mr. COURT: They could still tender lower than the Government instrumentalities.

Mr. JOHNSON: In my mind, had that organisation been subject to this particular measure and its operations had been examined by a commissioner, it would have been found that the whole of the transaction was unfair. It was certainly in restraint of competition and was apparently for the taking of unfair profit. Thus that Government instrumentality would have been subject to the penalties of this legislation. Should such a case occur in the future, this measure, if it is passed, would apply. The Leader of the Opposition is one who knows all about it, if the member for Nedlands does not.

Hon. L. THORN: If my memory serves me correctly, the Minister is astray regarding the State Electricity Commission submitting its increases to the Prices Commissioner, particularly as he said he would give a classic example. The State Electricity Commission increased its prices according to the increases in the basic wage and the price of coal, etc.

Hon. D. Brand: It was based on a formula.

The Minister for Labour: That is as I said.

Mr. COURT: I cannot allow the comments of the member for Leederville go without some observation because if he is correct in his assumption, it makes a fool of this clause of the Bill. It means that because the Tender Board accepts a tender and is the party that finalises the contract, anything it does is sacrosanct. That is one of my fears. I want the Minister to point out how it can be sheeted home. If we consider the case of the Wagon Timber Construction Co. in which the State Saw Mills was a partner, which would have been dealt with? Would the State Saw Mills just pay the fine or would its manager be subject to the imprisonment conditions, the same as other directors and managers?

Hon. A. F. WATTS: I did not propose to take any part in the debate at this stage on the Bill but my feelings, when I saw

this clause, were those of pleasure because it is very rarely that the Government can be induced to put in a clause which brings an obligation to the Crown under this or any other legislation.

Mr. Roberts: Probably a sprat to catch a mackerel.

Hon. A. F. WATTS: No, I do not think so. Some years ago I spent some time with the Crown Law Department in discussing this particular provision in regard to another measure and I have no doubt whatever that the insertion of the clause in this Bill places the Government instrumentalities and agencies—and the Tender Board would be one of the latter—in precisely the same position as anybody else in the State. The only limitation that could be placed upon that would be the limitation placed upon individuals. Supposing there was a commissioner and the Bill was an Act on the statute book, as I understood in the discussions which I referred to a moment or two ago, the State instrumentalities would be liable to the same penalties if the commissioner considered they had committed an offence.

It is true under the Bill as it stands there is a provision which states the commissioner is to be subject to the direction of the Minister, and I propose to take those words out because it is my opinion that if the commissioner is to be vested with powers, he should be allowed to exercise them entirely in accordance with his own judgment. If that is done, I have no doubt whatever that the instrumentalities of the Crown could be, in improper circumstances, made subject to the same conditions as anybody else.

The MINISTER FOR LABOUR: The member for Toodyay said I was wrong in my example. The actual position is that the State Electricity Commission may have submitted certain suggestions or recommendations to the Minister in regard to increased prices. The Prices Commissioner, after consultation with the general manager of the State Electricity Commission, arranged the formula and the factors mentioned were taken into account if a variation in price was to be made. I just took that as an example of how increases in these services were arrived at.

Hon. L. Thorn: The point I raised was that the commissioner was not the authority and did not authorise the increase.

Mr. BOVELL: I would like clarification on the commissioner's powers to investigate Government instrumentalities. Will he be in a position, if some adverse reports had been received, to investigate the functions, say, of the State Insurance Office regarding its charges or the Railways Commission with reference to exorbitant freights, or any other Government instrumentalities which come within the orbit of this particular Bill?

The Minister for Labour: Wholly.

Mr. BOVELL: So it really means all Ministers controlling departments will be subservient to the commissioner appointed under this Bill.

The Minister for Labour: I will answer by asking a simple question: Would the Opposition like this clause out?

Hon. Sir Ross McLarty: There is no such suggestion.

Mr. BOVELL: All I am asking for is an interpretation arising out of this Bill, which is a bad piece of legislation.

The Minister for Transport: Tripe!

Mr. BOVELL: I want to be quite clear as to how far-reaching this Bill is. During the Committee stages, the questions asked will be a genuine effort to become enlightened on the real benefits of this vicious legislation.

Clause put and passed.

Clause 8—Interpretation:

Mr. W. A. MANNING: I move an amendment—

That after the word "meaning" in line 32, page 4, the following definition be inserted:—

"unfair profit" means a profit made by a person in respect of the goods concerned, wholly or partly as a result of that person being or having been engaged in or a party to unfair trading methods or unfair methods of trade competition and which is, in the opinion of the commissioner, an excess profit having regard to the cost of the goods to the person, the costs of distribution, the type of industry or business concerned, and any other factors which should reasonably be taken into consideration in deciding what is a fair profit.

The purpose of this amendment is to make the Bill more workable. In the Bill the definition of "unfair trading" means two or three different things and one is "taking any unfair profit." So the definition of "unfair" is simply unfair. I contend that would be totally unfair to the commissioner because we are throwing on him the responsibility of defining something we are not prepared to define ourselves. Therefore it is the responsibility of this Chamber to attempt to define the word "unfair" and give the commissioner a lead. I feel that it is very important to be quite clear. First of all, the suggestion contains the idea that the unfair trading means a profit made by the means of unfair trading or unfair practice. That is the first essential of unfair profit.

The latter part of the amendment embodies what seems to me a fair definition of the words "unfair profit," as we are seeking to make the Act apply to persons trading by unfair means. I take it the measure is not intended to apply to those

who carry on honestly but to those who carry on in an unfair way and not in the interests of the public.

The MINISTER FOR LABOUR: I move—

That the amendment be amended by deleting the word "means" and inserting the word "includes" in lieu.

I would like to indicate that I am substantially in agreement with the member for Narrogin and would suggest to him that he accept my amendment on his amendment. The member for Narrogin indicated that the Committee should give the commissioner a lead. This will give him a reasonable lead and will not restrict him as regards this definition.

Mr. W. A. MANNING: The change of the word makes a vital difference to the amendment because the word "includes" means that this is only part of it, and there are some other parts. We should have a definition of the other parts that would be included.

Mr. COURT: I would like to ask a question of the mover of the amendment because, as I understand it, we have not advanced along the road if he is trying to clarify the position for the commissioner. Does it not still mean, in spite of the wording that the whole matter is still in the hands of the commissioner? We have not got past the stage of this one man who will be the investigator, the judge and the jury of this particular problem. He decides what will be a reasonable thing. I agree that we can never get a complete definition, but it is amazing how loose this provision can be.

We had many glaring cases under price control. There was a classic case in Victoria in connection with youths' trousers. There was a terrific outcry there because one trader was buying his purchases cheaper than others, adding 100 per cent. and selling for £2 an article which his competitors were selling for £2 5s. But they were adding the percentage approved by the Commissioner of Prices. The commissioner contended that the man who was selling for £2 was making an unreasonable profit. The fact that he was able to purchase on a much better market than his competitors did not seem to have any logic with the commissioner; and there we had a commissioner who was definitely attacking a trader who was selling an article cheaper to the public, and telling that man that he considered the margin was not reasonable.

That is an example of how difficult it is to define what is unfair; and I would like to ask the member for Narrogin whether he feels that his amendment would, in fact, help the commissioner. If we read it in conjunction with the other definition the hon. member proposes to try to have inserted, it does not get us very far. Can he tell us how he considers the

amendment will assist the commissioner in arriving at his decisions and, more particularly, how it will assist the unfortunate trader who is being investigated to establish the rights of his case, because he would still be subject to the opinion of one man?

Mr. JOHNSON: It is my belief that if this legislation is to work at all effectively, the wider the definition the better. We are proposing to give some very real powers to a body to be set up in the form either of a commissioner or a commission, and we are giving that individual or body the duty to make a moral judgment, because what is fair and what is unfair is a matter of morals and not something that can be defined in direct £ s. d.

I would draw the attention of members of the Liberal Party to the fact that this is not a prices control measure but one to deal with unfair profits. A great deal of their thinking appears to be conditioned by experience of price control in Australia. There is past experience in a number of places in relation to this particular type of legislation. It goes back quite a long way, and there is one—I think nearly everybody will find it not only instructive but amusing—dealing with a somewhat similar situation in English history, and, in particular, with unfair profits and unfair trading. I quote from "The Economic Role of the State" by William A. Orton—

An illustration worth pondering today is the case of an Essex farmer who in 1631 held his grain off a rising market and was condemned —

to pay 100 marks fine to the king and £10 to the poor, and to stand upon the pillory in Newgate Market an hour with a paper, wherein the cause of his standing there was to be written, put upon his hat, "For enhancing the price of corn";

Mr. Court: Is that taken from this Bill?

Mr. JOHNSON: If the hon. member had been listening, he would have heard that this took place in 1631.

Hon. L. Thorn: That is what the Bill is based on.

Mr. JOHNSON: I thought that members would find this both amusing and worthwhile pondering upon. The extract continues—

and then to be led through Cheapside Leadenhall Market, and there likewise to stand upon the pillory, and after this to be sent to Chelmsford and there likewise.

That is an experience which was found effective in the reign of the first Elizabeth and had some real value.

Mr. Bovell: What date did you say?

Mr. JOHNSON: While the hon. member was sleeping, I said it was in 1631.

Mr. Bovell: Queen Elizabeth was not on the throne then. That was in the time of Cromwell.

Mr. JOHNSON: As usual, the hon. member is clowning and trying to be amusing; and even in that he is failing.

Mr. Bovell: Who was King at that time?

Hon. A. F. Watts: Charles the First who lost his head. The Minister for Justice knows all about him.

Mr. Bovell: He got his head chopped off.

The CHAIRMAN: Order!

Mr. JOHNSON: Members can clown as much as they like, but the text-book deals with Queen Elizabeth; and if it is wrong in relation to dates or who was the monarch, that is the text-book's fault. I wish to refer to something a little more modern, and with a different background. This quotation has to do with U.S.A. experience of unfair trading—

The Federal Trade Commission Act of 1914, as most readers will recall, is designed to prevent unfair methods of competition. When the Bill was in the Senate, several members argued that some definition of the terms "fair" and "unfair" ought to go in; and there were some interesting suggestions. One of the most interesting was that "unfair competition" should cover practices for which the injured party could get redress only by going to law. In the end no definitions were inserted, very fortunately, as it turned out.

I feel that that last comment—"very fortunately, as it turned out"—is one of the most important.

Mr. Court: Wasn't that to deal with a wartime situation?

Mr. JOHNSON: So it was. What is the difference?

Mr. Court: It is entirely different in times of peace.

Mr. JOHNSON: What we are dealing with in the amendment before the House is whether we should insert a definition of "unfair," and the situations which are to be dealt with by the legislation are situations which occur in wartime as well as in times of peace. The point I am trying to make is that, if we had a competent commissioner, he should not be hamstrung by a legalistic definition which would not cover the situation for more than six months. Given a good commissioner—or even a reasonable commissioner—over a period of a very short time an experience would be built up defining what is and what is not unfair. One of the strengths of British law has been the experience of common law and—

Mr. Court: This will not be dealt with by common law. Under this measure it is expressly excluded.

Mr. JOHNSON: The hon. member is dealing with something entirely different. I am dealing with the definition of what is and what is not unfair, and my point is that it should be left to the commissioner to make this judgment. Otherwise, we will get ourselves to the situation under which we will have to define the rate of profit which is fair in each particular circumstance and get back, in effect, to prices legislation. That is one thing we wish to avoid. We want to keep this in a judgment situation.

Mr. Roberts: You are not keen on price fixing?

Mr. JOHNSON: Detailed price fixing is something which should be avoided if possible. There should be a standard set of judgments as to the type of practice which is or is not fair, and which can be set against each individual experience.

Mr. Court: The definitions of what is unfair, as built up by the commissioner, will never be known to the traders or to the public.

Mr. JOHNSON: That may or may not be so; but the choice of what is fair or unfair is a matter for a man's conscience, and anybody whose conscience does not tell him when he is being unfair is liable to come under this measure. Any man whose conscience is at fault to such an extent that he does not know when he offends against decency, should be pilloried and have a notice in his hat to say why.

Mr. Court: You are not helping your Government with that admission.

Mr. PERKINS: The further this debate develops in Committee, the more it brings out how impossible the legislation is going to be. Many of us have a suspicion that this commissioner, if and when appointed, will be an individual clothed with powers that we have not seen held by any individual in modern times in a British state. When the member for Leederville says that this is going to be a moral question, decided on moral grounds, it is as well for members to realise how far these definitions will extend.

I feel that the position is becoming even more disquieting than some of us expected it to be. If the Government agrees with the interpretation of this clause given by the member for Leederville, I think the Premier or the Minister should say so, because it would have far reaching repercussions and would turn the clock back several hundred years.

The MINISTER FOR LABOUR: During the second reading debate the member for Roe showed, in no uncertain fashion, that he was allied to the Liberal Party on this issue, and, of course, he is entitled to his opinion.

Hon. Sir Ross McLarty: What has that that to do with it?

The MINISTER FOR LABOUR: I have said the member for Roe is entitled to his opinion. The member for Nedlands indicated earlier that members of the Liberal Party were not going to move any amendments, but would take part in the debate on amendments moved by Country Party members. He indicated what the general attitude of Liberal Party members would be, and the member for Roe followed that lead and so I think we must discount his argument.

We say, in no uncertain terms, that the commissioner will be capable of judging what are unfair profits, as he will not be appointed without regard to his qualifications. Members are no doubt familiar with other provisions under which the commissioner can select expert advisers. Do members opposite believe that the commissioner will use unlimited power without exercising commonsense?

There is no appeal from the decisions of the Arbitration Court and its decisions are final as to what is a fair price for labour. Do members opposite suggest that that court should be told what the remuneration of a fitter or turner should be? It has been the accepted practice for years for that court to determine the price of labour, and I say we can find a person with the requisite capacity to investigate any industry and determine in regard to it whether there are any unfair practices indulged in or unfair profits made.

Mr. Court: The tasks are not analogous.

The MINISTER FOR LABOUR: We can debate that later. Who fixes prices now?

Mr. Bovell: Competition.

The MINISTER FOR LABOUR: What about combines? The business community has a prices advisory board.

Mr. Court: It does not fix prices.

The MINISTER FOR LABOUR: Does it not fix margins?

Mr. Court: No.

The MINISTER FOR LABOUR: I say it does; otherwise what are its functions?

Mr. Court: It was only a committee to liaise with your Government on prices control.

The MINISTER FOR LABOUR: The hon. member cannot tell me that the business community does not, through its organisations, fix prices. Members who wish to sabotage the Bill allege that the commissioner will not be competent to decide what is a fair profit. I believe the member for Narrogin has made a sincere attempt to define what unfair profit or unfair trading is, and within its limitations the amendment is probably sound, but I do not think the commissioner should be hamstrung in that way. He should be given power to determine what is a fair profit. The member for Roe is

on all fours with members of the Liberal Party, in trying to kill the Bill. They cannot see any good in it.

Mr. PERKINS: The Committee stage of any measure gives the Minister an opportunity to state in detail how the various clauses will work, but in this instance and in regard to this clause, he continues to cloud the issue. He tries to show an analogy between the Arbitration Court and the proposed commissioner, but I think he will agree that the first task of the court is to lay down a schedule of wages and conditions of work so that anyone employing a workman under an award of the court knows exactly the conditions that must be complied with.

In the next breath the Minister says that under this measure Parliament is not going to lay down any detailed conditions and that it is impossible for the commissioner to do so. In view of that, what is the value of the analogy between the Arbitration Court and the commissioner? I think the Minister should leave the position at least as general as it was before the member for Narrogin moved his amendment.

Mr. BOVELL: The amendment is an attempt to define what is unfair trading and the Minister has said the measure will create an all-powerful commissioner who will decide guilt or innocence in the case of all charges that may be laid. In an endeavour to clarify the position, the member for Leederville turned back the pages of history for over 300 years and referred to what happened during the reign, not of Queen Elizabeth I., but Charles I. It was in 1649 that Charles I. was executed. Queen Elizabeth I. finished her reign in 1603 and James VI. of Scotland became James I. of England.

In 1633, which I think was the year quoted by the hon. member, certain things were done, as he read to the Committee. If we refer to the parliamentary system in the time of the Tudors and the Stuarts we find it was a transition period when the Government of the country was passing from an individual to a Parliament representative of all sections of the community. In my opinion, the member for Leederville simply condemned the measure, and this clause in particular, by his reference to 300 years ago.

The other night in this Chamber the Minister for Justice said I resembled Charles I. in that if I went on as I was, I would also have my head chopped off. I assure him there is no possibility of my losing my political head at the moment. If agreed to, this measure would give the commissioner power equal to that of the monarch in the days of Charles I. One of America's greatest statesmen said, "Power corrupts and absolute power corrupts absolutely." This clause would give the commissioner absolute power, and I

feel the Government is trying to create a bureaucratic control over all industry and initiative in this State.

Mr. W. A. MANNING: The member for Leederville said the Bill did not seek general price fixation, but that is what I think this clause would amount to, if agreed to. The member for Nedlands opposed the provision, but I think we have to leave matters such as this to some qualified person. One cannot define what is a fair or unfair profit by percentages or pounds, shillings and pence. It must be left to the discretion of someone. If the member for Nedlands follows through the suggested amendments he will find that there are some protective amendments as to the power of appeal. If those amendments are agreed to, the picture will be entirely different because there is a line of appeal from the commissioner provided by them.

I hope the Minister will not insist on his amendment on the amendment because it will destroy the whole purpose of the Bill, which is supposed to afford protection against unfair trading or unfair profits. The whole field would be open to the commissioner, if the amendment were agreed to. If the Bill is to inflict price fixing on individuals in the community, it is doomed to failure. Price fixing in a general way, as we had it, was unwarranted. It was a costly business because of the huge staff that was employed trying to administer it, and it was largely futile. The Government desires only to control what is regarded as unfair trading and unfair profits, and the Bill as printed still protects the commissioner to that extent.

Mr. BOVELL: If the amendment on the amendment is carried, it will make the amendment negative. The word "includes" means nothing. It does not give any clear definition.

Mr. OLDFIELD: I agree with the member for Vasse. There is no necessity for the Minister to move an amendment to the amendment because it completely negates the amendment moved by the member for Narrogin. If the Minister wants to carry out any semblance of the spirit in which the Premier moved the Bill, he should either oppose or support the amendment as moved and not tinker with it.

THE MINISTER FOR WORKS: I think the member for Narrogin is perfectly sincere in trying to provide a definition where the Bill does not give a straightout definition, but his definition is by no means adequate and that would mean that a number of situations could arise and the commissioner would be powerless to deal with them. It is axiomatic that the more one defines, the more one limits. The result of the amendment moved by the member for Narrogin, if

agreed to, would be to exclude from consideration a good many reprehensible practices. Some mention has been made this evening as to who fixes prices. I would like to ask the member for Nedlands: Who fixes the price for fixing plaster-board?

Mr. Court: You have picked a pretty competitive line there.

The MINISTER FOR WORKS: Have I?

Mr. Court: Yes.

The MINISTER FOR WORKS: I will tell the hon. member how the price is fixed. If one calls for tenders for the fixing of plasterboard, before anyone can tender he must first ring up the organisation and find out whether anybody else has tendered. If there has been another tender submitted, he cannot tender the same price but must tender one that is either lower or higher. A situation like that would not be covered by the amendment moved by the member for Narrogin. We have to be very careful to state completely what our intentions are so that we do not exclude a number of possibilities where subsequent action is absolutely necessary.

Mr. Hearman: Would they not be parties to unfair trade practices if they did that?

The MINISTER FOR WORKS: But they would not fit in with the definition as contained in the amendment moved by the member for Narrogin. If we accept the definition as set out in the amendment on the amendment as moved by the Minister, a definition of unfair treatment is included. If the hon. member insists that his definition alone be the one to be adopted, I must immediately become suspicious of his action and begin to wonder whether he wants to exclude some cases which ought to be dealt with, because that would be the result of the adoption of his amendment.

Mr. Court: Can you give us examples of reprehensible practice?

The MINISTER FOR WORKS: I have just given one.

Mr. Court: You cannot sustain that argument if you read the hon. member's definition.

The MINISTER FOR WORKS: Yes, I can, but I cannot go into details now. I am not going to be a party to something which will reduce the power of this Bill. That is what the Liberal Party wants to do. It wants to knock it out completely.

Mr. Bovell: Too right we do!

The MINISTER FOR WORKS: If the Liberal Party is not successful in that, it wants to whittle it down until it becomes completely ineffective. However, we want

to make this an effective Bill to stop unfair trading and unfair profits. Anybody who is not making unfair profits or who is not trading unfairly has nothing to fear from the Bill. The amendment moved by the member for Narrogin still leaves the decision to the opinion of the commissioner, but his ambit will be greatly reduced. In the ultimate it is always the opinion of one man that counts. Frequently we take cases to the High Court and the final judgment can be the opinion of one man.

Mr. Wild: It is a majority judgment though, is it not?

The MINISTER FOR WORKS: Yes, but it is still the opinion of one man, actually.

Mr. Court: That is not logical. If the decision is three against two, the decision is the opinion of three men.

The MINISTER FOR WORKS: Let us take an example in the Arbitration Court where questions arise affecting employer and employee. Before the decision is given one can be certain that the employers' representative will be supporting the employers and the employees' representative will be supporting the employees. From time to time I have examined the judgments given by that court very carefully, and I have never found that that was not so. Yet the decision given is the decision of the President—a decision by one man. The member for Nedlands knows that is so, so what is the use of arguing about it? We do not hear any complaints here because the decision of the court is the opinion of one man. It must not be forgotten that many of the judgments given affect the pay envelopes of thousands of people.

Mr. Court: And in this case he is to account to nobody as to the method of arriving at his decision.

The MINISTER FOR WORKS: That could be remedied. However, I am dealing with the situation as it stands at present. We would be most unwise to insert the definition proposed by the member for Narrogin because it is by no means adequate and by doing so we would thereby exclude from consideration quite a number of situations that could arise. Even if we took the collective wisdom of this Chamber, it would be impossible for us to get all circumstances right and be able to say with certainty that there was no other possible situation which could arise. That being so, it is unwise for us to attempt it in this way, but we should leave it open so that each case could be considered on its merits. If any particular circumstances arise, they could be dealt with. The amendment moved by the member for Narrogin would exclude the possibility of that being done and would mean further legislation.

Mr. W. A. MANNING: The Minister has taken the wrong meaning of the words "unfair trade methods" or "unfair methods of trade competition." That is rather important. He has quoted a case which he said would not be controlled if the amendment I have moved is agreed to, but it could be. It could be done under one or two paragraphs of the amendment and particularly under paragraph (b). We are seeking to deal with unfair practices. The definition that I have submitted limits the commissioner to a certain extent, but does not limit him to the extent of depriving him of the opportunity to deal with the case as quoted by the Minister, or any other case that is similar.

If any member can point to a particular case that is not covered by the definition and which represents unfair trading practices, there might be some reason for altering the amendment. However, I can think of no case that would not be included. Therefore the amendment on the amendment as moved by the Minister is not justified because the position which he dealt with is definitely covered by the amendment I have moved.

Mr. JOHNSON: The definition deals solely with goods, but profits can be made in other ways than by dealing in goods, such as by the supply of services. We all remember the considerable profits which were made a few years ago in the plumbing and electrical contracting trades. They were not in relation to the supply of goods but to the supply of labour of which there was a very acute shortage then.

Mr. Wild: Does that not follow the law of supply and demand?

Mr. JOHNSON: We are not dealing with that law but with the law of Western Australia. Replying to the point raised by the member for Roe, the experience of the commissioner would be based on the same starting point from which the Arbitration Court was first developed, that is, under a very wide franchise. The basis of the basic wage structure was a single phrase in the Tariff Act. In bringing down the Harvester judgment, Mr. Justice Higgins had relied on the phrase "the fair standard of living." The building up of the experience of the Arbitration Court went forward from that point. That court has today a great volume of experience and precedents to work on. It built that up not by any law but from experience. I appeal to members to give some thought about providing too many definitions. It is much better to build up a body of experience which will prove to be valuable in future years.

Mr. Court: As far as the Arbitration Court evidence and decisions are concerned, the public know the lines that have been developed over the years, just the same as in common law, but under the Bill that will not be possible.

Mr. JOHNSON: At the time of the Harvester judgment, the public did not know the lines either, but now that the Harvester judgment has passed into history and experience has been built up, the situation is well known. The situation built up by the Arbitration Court at the time was based on what the decent employer was paying to the average worker. One could imagine that the commissioner would base his experience on what the decent trader and the decent supplier of services were doing. Although the majority of people in trade and commerce are decent, there is no line in which there does not exist an occasional black sheep, and it is against those that the Bill proposes to guard. If there is a definition, the black marketeer and the smart Alec will be able to discover a way around it, but if the definition is left in the hands of the commissioner, that would be a more sensible method.

Mr. POTTER: The amendment to insert the word "includes" can only act as a guide to those who will be administering the Act. As pointed out, people can be tied down to too great an extent, and the very thing the people want done will be upset. People should be made aware of the trouble that the administration takes to interpret Acts that are passed. In this instance, the Bill before us deals with the economy of the State and we must have confidence in the commissioner to carry out the provisions, the intentions and the principles of the Act.

The insertion of the word "includes" is a guide to the interpretation of the legislation and should not serve to bind the commissioner to some set of circumstances. As the Minister for Works pointed out, an occasion may arise which is not covered by this provision, and as a result an amending Bill will have to be introduced to clarify the definitions in the Act. This Bill must, to a large extent, be phrased loosely. We ought to have confidence in the commissioner, for after all the whole business and monetary world is based on confidence.

Mr. BOVELL: Dealing with the definitions, I would like further information from the Minister with regard to people supplying services. Where a garage in Kalgoorlie, Esperance or Geraldton represents a motorcar distributor for the district, will it come within the orbit of this Bill? This is an arrangement between one trader and another for the supply of certain services. I would like the Minister to make the position clear. Such a case could involve a firm like Massey Harris and a country storekeeper in connection with sales of harvester machines. Will the commissioner be able to take action against parties to such an arrangement?

Mr. COURT: As the Minister does not appear to be answering the question raised by the member for Vasse, we are entitled

to some further explanation from him in view of his insistence on the insertion of the word "includes." It is apparent from what the Minister for Works says that under the amendment proposed by the member for Narrogin there will arise practices which, in the opinion of the Government, are reprehensible and which will be able to escape prosecution. We are entitled to some indication as to what goods and services he feels would escape if this amendment is agreed to. By agreeing to insert the word "includes," the amendment of the member for Narrogin becomes completely ineffective if, in fact, it imposes any restriction on the commissioner's decision. The illustration given by the Minister for Works cannot be sustained because, as the member for Narrogin explained, the latter part of his amendment would cover that particular instance, if it were to arise. We ask the Minister to tell us which practices are reprehensible and will not be covered by the proposed definition.

THE MINISTER FOR LABOUR: The member for Narrogin pointed out that few cases would arise where the commissioner would have to go outside the definitions. If that were the case, why limit him to the terms of the proposed amendment? In answer to the member for Nedlands, I cannot be expected to give a reply to every hypothetical case that is put up. If the Bill is passed, the authority will be given to the commissioner, and if he is satisfied that the customary trade practice is reasonable, equitable and honest, there need be no worry on the part of the trader concerned.

The commissioner will have the authority to deal with particular cases and he will make decisions in accordance with the circumstances of those cases. The member for Narrogin has indicated that some lead should be given to the commissioner. By agreeing to the insertion of the word "includes," nothing will be done to take away the effect of the amendment proposed by the member for Narrogin, in which there is a fair amount of substance. The commissioner will take that definition as a guide, but he will not be confined by it solely. It might be said that no case would arise which would be outside the definition and there was no necessity to insert the word "includes." However, if cases do arise which are not covered by the amendment, the commissioner should have the power to deal with them.

Sitting suspended from 6.15 to 7.30 p.m.

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

Ayes	....	....	....	....	22
Noes	....	....	....	....	17
Majority for	....	....	....	....	5

Ayes.

Mr. Andrew	Mr. Marshall
Mr. Brady	Mr. Norton
Mr. Evans	Mr. Nulsen
Mr. Gaffy	Mr. O'Brien
Mr. Hall	Mr. Potter
Mr. Hawke	Mr. Rhatigan
Mr. W. Hegney	Mr. Rodoreda
Mr. Hoar	Mr. Sewell
Mr. Jamieson	Mr. Sleeman
Mr. Johnson	Mr. Tonkin
Mr. Lapham	Mr. May

(Teller.)

Noes.

Mr. Ackland	Mr. Nalder
Mr. Bovell	Mr. Owen
Mr. Brand	Mr. Perkins
Mr. Court	Mr. Roberts
Mr. Crommellin	Mr. Thorn
Mr. Mann	Mr. Watts
Mr. I. Manning	Mr. Wild
Mr. W. Manning	Mr. Cornell
Sir Ross McLarty	

(Teller.)

Ayes.

Mr. Kelly
Mr. Toms
Mr. Lawrence

Noes.

Mr. Hardman
Mr. Oldfield
Mr. Hutchinson

Amendment on amendment thus passed.

THE MINISTER FOR LABOUR: I have another amendment—

Mr. PERKINS: On a point of order, the amendment we just carried was an amendment on an amendment, but the amendment, as amended, is still before the Chair.

The CHAIRMAN: Yes. That is quite right.

Amendment, as amended, put and passed.

The MINISTER FOR LABOUR: I move an amendment—

That after the word "meanings" in line 16, page 5, the following be added:—

But does not include the taking of any profit, the using of any trading method, or the using of any method of trade competition, authorised by or pursuant to the Marketing of Barley Act, 1946, the Marketing of Eggs Act, 1946, the Marketing of Onions Act, 1938, the Marketing of Potatoes Act, 1946, the Dairy Products Marketing Regulation Act, 1934, the Wheat Industry Stabilisation Act, 1954, the Wheat Marketing Act, 1947, or any other Act of the State or the Commonwealth having as its objects or part of its objects the orderly marketing of primary products.

Apparently there was some doubt as to whether the Bill would override or cut across the provisions of the Acts mentioned in my amendment, and possibly other Acts that are not enumerated here. This amendment has been drafted by the Parliamentary Draftsman to clear up the position, and to meet any objections that might be raised. I think the amendment is self-explanatory.

Mr. I. W. Manning: Would the Minister tell us what the position is with the Milk Act?

The MINISTER FOR LABOUR: The amendment enumerates certain Acts, Commonwealth and State, but obviously there are other Acts. Towards the end of the amendment we find these words, "or any other Act of the State or the Commonwealth." The Milk Act would come within that category. For some time now the Milk Board has fixed the price of milk, and I suggest it would not, because of the passing of this measure, be affected in fixing the price of milk.

Amendment put and passed.

Mr. W. A. MANNING: I move an amendment—

That after the word "meanings" in line 16, page 5, the following definition be added:—

"unfair trading methods" or "unfair methods of trade competition" mean—

- (a) the making of or entering into any contract or agreement, with any person or the continuing to be a member of or engaging in any combine, in relation to trade or commerce within the State—
 - (i) in restraint of or with intent to restrain trade or commerce; contrary to the interest of the public or
 - (ii) to the destruction or injury of, or with the intent to destroy or injure by means of unfair competition, any industry the preservation of which is advantageous to the State;
- (b) the making of or entering into any contract or agreement providing for the establishment or maintenance of minimum resale prices of commodities, or for limiting the distribution thereof, between persons in competition with each other;
- (c) the monopolising or attempting to monopolise, or combining with any person to monopolise, any part of the trade or commerce

within the State: Provided that nothing in this paragraph shall apply to the sole distribution rights of a commodity carrying the trade mark, brand or name of the producer or distributor, and which is in free and open competition with commodities of the same general class produced or distributed by others;

- (d) the discriminating in price between different purchasers of goods of like grade or quality where the effect of such discrimination may be contrary to the public interest substantially to lessen competition or tend to create a monopoly in any line of trade or commerce, or to injure, destroy or prevent competition.

The amendment simply means that every type of agreement in restraint of trade or to set a common price contrary to the public interest would be subject to investigation by the commissioner. The only exception is contained in the proviso to paragraph (c) of the amendment. This applies in the case of certain trade lines which are sold by the manufacturer to the retailer on the understanding that they be sold at a certain retail price provided that the line is in open competition with other lines of a similar type.

The practice is for a manufacturer of lines of that description to produce articles which sell at a certain price, which is the advertised price, and it is usually the same price throughout Australia, if it is an Australia-wide manufactured article; therefore, the prices are fixed. They apply in every town or city in the Commonwealth, or if it is a State-wide manufactured article, throughout every town or city in the State. But that is not a restriction of trade because the article is being sold in open competition with similar articles produced by other manufacturers and therefore it has to meet that competition. I think the amendment is fairly clear and it defines "unfair trading methods" and "unfair methods of trade competition."

The MINISTER FOR LABOUR: This amendment is quite acceptable to the Government but for reasons which I have advanced previously. I move—

That the amendment be amended by striking out the word "mean" in line 3 and inserting in lieu the word "include".

I do not propose to go over the same ground again because I dealt with this aspect before the tea suspension. As far as the amendment goes, it is desirable and to a certain extent follows some of the principles which were embodied in a measure introduced by the Leader of the Country Party last year.

Mr. COURT: The amendment on the amendment is consistent with the Minister's previous remarks and I feel that the debate has taken such a trend tonight that it has become quite clear that the Government is wanting this measure to be made as wide as possible. If the amendment on the amendment is agreed to, it will nullify completely the intention of the member for Narrogin and there is no doubt that that is the Government's idea.

There are various aspects of this amendment in regard to which I would like to hear the views of the mover. For instance, the marketing of livestock by producers does not appear to be exempt under this definition. I know that the argument could be advanced by the Government that the commissioner would not take any notice of livestock transactions. But we have to consider the law as it will be as law and not as it might be practised and I draw members' attention to paragraph (b) of the amendment. It is not uncommon in the ordinary trading of a primary producer, for him to confer with various associates and friends regarding the marketing of his stock. Will this amendment mean that if they confer as to the method of marketing whereby they might refrain from going to a certain market, or they might go individually instead of collectively, they will have transgressed under this measure.

The second point is in regard to paragraph (d). We know there are people today who, because of their volume of buying, buy on an entirely different basis to those who purchase lesser quantities. It is either because they have a greater outlet for the goods or they have the finance to buy on a better basis. In most cases, and particularly in connection with the supermarket system, those goods find their way to the public cheaper than they do in the case of a person who purchases in small quantities.

Is it to be held that under paragraph (d) these people have adopted an unfair trading method or an unfair method of trade competition? I feel it would be as well if the hon. member could inform the Committee as regards those points, particularly in view of the Ministers' insistence on the amendment on the amendment, which will have the same nullifying effect as on the previous occasion.

Mr. W. A. MANNING: A primary producer does not enter into agreements on the marketing of his stock; if he did so, he could possibly come under this provision. But he does not do that. He markets his stock usually on the open market at auction.

Mr. COURT: But they do make agreements—not in writing but verbally among themselves.

Mr. W. A. MANNING: I do not think they would come under this clause at all; the whole position is qualified by the phrases "contrary to the interests of the public" and "creates a monopoly." They do not do that. If goods are sold and there is free competition, as there is with the open auction system, there can be no denying the fact that those goods are sold to the highest bidder. I feel there is nothing to fear in that respect.

Then again, I would also point out that every paragraph in the amendment includes a protection for persons entering into agreements inasmuch as the agreements have to be monopolistic or attempting to monopolise and contrary to public interest. As the clause is worded, it can apply only to people who enter into agreements which are contrary to the general interests of the State. If they are not against public interests, and are subject to free and open competition, they definitely will not come within the scope of this amendment.

Mr. COURT: I feel that the hon. member missed my main point. I do not deny that when the stock actually reach the livestock market there is open competition; but it is not unusual for several fairly big producers to arrange the sequence in which they will market, and, whether the contract is in writing or verbal, it is still an agreement.

Hon. A. F. Watts: An agreement to do what?

Mr. COURT: That they will market their product in a certain sequence so that they will not interfere with each other.

Hon. A. F. Watts: Does that establish or maintain a minimum resale price? If it does not, then it does not come under this.

Mr. COURT: It could establish a minimum price. The position I am warning against is this: For instance, if we found that the price of meat was going up, that in turn would have an effect on the basic wage and the Government of the day would have to say, "We will have to do something about the meat business, but we cannot get it through the livestock market because that is open competition."

The CHAIRMAN: Order! Will the hon. member please address the Chair.

Mr. COURT: I am sorry, Sir. Those behind me were complaining that they could not hear. The commissioner would then try to get behind the transaction and would endeavour to establish that there was some violation of the Act by people making an arrangement to withhold their stock, thereby building up a higher minimum price. It is a very real case because when we had price control,

meat was the sore point with the commissioner. It was by far the most difficult commodity to control and, of course, there was no attempt to control livestock on the hoof. However, if the hon. member is satisfied that the producer is protected in regard to these private arrangements made between producers, I will accept his assurance. As regards the other point, he made no comment.

Hon. A. F. Watts: Yes, he did. He said that it would not be contrary to the public interest and therefore would not come within the scope.

Mr. COURT: If he thinks that, then I shall not press it any further.

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

Ayes	23
Noes	18
Majority for	5

Ayes.

Mr. Andrew	Mr. Marshall
Mr. Brady	Mr. Norton
Mr. Evans	Mr. Nuisen
Mr. Gaffy	Mr. O'Brien
Mr. Graham	Mr. Potter
Mr. Hall	Mr. Rhatigan
Mr. Hawke	Mr. Rodoreda
Mr. W. Hegney	Mr. Sewell
Mr. Hoar	Mr. Sleeman
Mr. Jamieson	Mr. Tonkin
Mr. Johnson	Mr. May
Mr. Lapham	

(Teller.)

Noes.

Mr. Ackland	Sir Ross McLarty
Mr. Boveil	Mr. Naider
Mr. Brand	Mr. Owen
Mr. Cornell	Mr. Perkins
Mr. Court	Mr. Roberts
Mr. Crommellin	Mr. Thorn
Mr. Grayden	Mr. Watts
Mr. Mann	Mr. Wild
Mr. W. Manning	Mr. I. Manning

(Teller.)

Pairs.

Ayes.	Noes.
Mr. Kelly	Mr. Hearman
Mr. Toms	Mr. Oldfield
Mr. Lawrence	Mr. Hutchinson

Amendment on amendment thus passed.

The MINISTER FOR LABOUR: I would like the member for Narrogin to explain paragraph (c) of his amendment more clearly.

Mr. W. A. MANNING: This is necessary because it applies to a number of goods for which there is a fixed retail price set by the manufacturers. That is done so that the goods can be nationally advertised together with the price. It usually applies to nationally advertised goods. It is not usual to maintain a high price; in fact, in many cases the margin is too low. I know of many instances of retailers who have refused to handle these lines because the margin is not sufficient.

It is done to promote the sale of the goods in which the manufacturer is interested. He often appoints agents, to which there can be no objection. They do not always appoint agents, but they

do fix the retail selling price. If that is the case and someone seeks to sell those goods at a different price, then the manufacturer is justified in handing the goods over to someone else to sell at that price. If those goods were priced to sell at an excess price or an unfair profit, they would come within the scope of the clauses already set out because it would be an attempt to restrict sales by unfair agreement, etc.

The matter of bathers has been mentioned. The price is fixed, but there are also different competitive makes. It cannot be called a monopoly or restraint because they have to compete with other brands. This applies also to both men's and women's underwear. It can apply to other articles besides clothing in which there are nationally advertised prices, and unless it can be proved unfair and against the public interest it is accepted.

There is no intention in this amendment to find any way out. This is not against the interests of the consumer, but rather in his interests. Frequently under that system, goods are sold in this State at exactly the same price at which they are sold in the East where they are manufactured. It works to the advantage of the people of Western Australia.

Mr. PERKINS: Now that the Minister has succeeded in his amendment to substitute the word "include" for the word "mean" we are largely beating the air. Had the member for Narrogin succeeded in his amendment in its original form, it would have given the commissioner some guidance to regard or disregard this amendment as he saw fit. That was why the Minister moved his amendment. There is no knowing where the repercussions of the clause will end.

Mention was made that primary producers could be liable, and I can visualise such circumstances. Members may recall the time when wheat producers in this State were dissatisfied with the prices they were receiving and, at one stage, they decided that wheat should be withheld from sale. The member for Nedlands raised the question of livestock and it is conceivable that if the meat section of the Farmers' Union did not think they were getting a proper price for their meat, they might decide to withhold stock from going to slaughter. But surely that would be actionable within the terms of this Bill!

I do not think any amendment moved by the member for Narrogin now can have any effect upon that position because the commissioner can regard or disregard the wording in this clause. I have always been against holding the public up to ransom, but, on the other hand, members on the Government side advocate the glorious right to strike. Since they advocate that right for labour, surely we cannot deny the same right to primary producers; and I feel that members opposite could be beaten with their own stick.

Mr. Andrews: There is, of course, the Arbitration Court.

Mr. PERKINS: Members opposite are quite prepared to disregard arbitration when it suits them, and this is happening in Queensland at the moment.

The PREMIER: The member for Roe is wrong in saying that the commissioner can regard or disregard this amendment as he pleases. He can do nothing of the kind. He would have to pay due regard to the wording of the amendment if it finally became law.

Mr. Ackland: With the sky his limit as to interpretation.

The PREMIER: This would be a type of unfair trading and unfair trade competition that he could not disregard. The effect of the amendment agreed to a few moments ago is that the commissioner would not be limited, totally and absolutely, to these types of unfair trading and unfair trade competition, and that is surely one thing in which he should not be restricted. None of us would say that the definition with which the Committee is now dealing is complete and that it would meet every case of unfair trading or unfair trade competition that might develop.

Hon. Sir Ross McLarty: Is there a definition now that you have put in the word "include" instead of the word "mean"?

The PREMIER: This is not a purely restrictive definition but at least by putting this amendment into the Bill, the commissioner will be provided with some guiding principles in respect of certain types of unfair trading or unfair trade competition. But surely in a question of this kind we should not tie the commissioner down absolutely and leave him with no discretion at all to deal with cases which might arise outside this wording! As a matter of fact, the Committee has already decided that the commissioner is not to be restricted absolutely within the terms of these definitions. However, I rose mainly to say that it was quite wrong and inaccurate for the member for Roe to say that in the event of this Bill becoming law, the commissioner could regard or disregard these guiding principles according to his own pleasure or his own whim. He would, of course, have to act in cases of this type in accordance with these principles.

Mr. COURT: I am sure I cannot follow the line of reasoning put forward by the Premier. As I see it, this word has been included to make the amendment before us just as wide as the sky. The commissioner takes notice if he wants to, and if he feels he does not want to, he goes outside of it.

The Minister for Transport: The transport Act gives the board very wide powers and in certain cases the sky is the limit.

Mr. COURT: The member for Narrogin was trying to include the definition to assist the commissioner and the trader.

The Minister for Works: He is trying to restrict.

Mr. COURT: Not to any great extent, because the amendments he put forward will not achieve much in restricting the commissioner.

Amendment, as amended, put and passed.

Hon. A. F. WATTS: I desire to move an amendment as follows:—

That at the end of the clause, line 16, page 5, the following provisos be added:—

Provided nevertheless, that the term "goods" does not include goods bona fide sold at public auction. Provided further the term "services" does not include professional services.

I want to move this amendment in two parts instead of one. I move an amendment—

That at the end of the clause, line 16, page 5, the following proviso be added:—

Provided nevertheless, that the term "goods" does not include goods bona fide sold at public auction.

I do not think it needs very much by way of explanation, although there is a variety of reasons. A public auction is a free-for-all where there is completely open competition. More importantly, it will include all the open public sales, including livestock at public saleyards. For those reasons I submit the amendment.

The MINISTER FOR LABOUR: I suggest that the member for Stirling withdraw his amendment so that I may move another as follows:—

That the following proviso be inserted:—

Provided nevertheless that the reference to "goods" does not include the sale at public auction of goods bona fide sold at public auction.

This proposition is substantially the same as that moved by the member for Stirling. The question arises: Once goods have been sold at public auction, does the exemption follow them until their consumption? The amendment I have just read would limit the exemption to the particular auction. The only reason for this amendment is that if goods are sold at public auction and the amendment of the member for Stirling is adopted, the question arises, as to whether such goods will always be exempt from the provisions of the Act? I suggest if the member for Stirling felt disposed to withdraw his amendment in favour of the one I have indicated, then a particular transaction would be confined to a particular public auction and would meet the position

Mr. BOVELL: I can see the purpose of the Leader of the Country Party in moving his amendment in order to free the primary producer from the jurisdiction of this Bill if it becomes an Act. There are many commodities purchased by the farmers in this State that are not submitted to public auction. It is quite a common practice for woolgrowers to sell wool on the property, and I feel that such transactions should be protected. I also know it is a common practice for primary producers to sell stock on their properties without going to public auction. I believe that the primary producer should not be included within the ambit of this Bill.

There is also the position of wool and stock being withdrawn from auction. Under this Bill, must wool be sold at public auction at a price that is not satisfactory to the primary producer? These questions are exercising my mind as a representative of primary producers, and I feel some explanation should be given. In my opinion, the amendment does not protect the primary producer in the way in which I believe the Leader of the Country Party wants to protect him.

Hon. A. F. WATTS: I do not know why I should accept the Minister's amendment in preference to my own. During the course of the debate I have heard many suggestions as to what might happen in certain circumstances under this Bill, which I thought were rather exaggerated. I think the amendment I have moved is entirely satisfactory and will leave it to the wisdom of the Committee.

Amendment put and passed.

Hon. A. F. WATTS: I move an amendment—

That the following further proviso be added:—

Provided further the term "services" does not include professional services.

I do not think it is intended that the legal profession should be included under the Bill because there is a paragraph which exempts those controlled by other statutes and it will be recollected that legal fees are dealt with under the Legal Practitioners' Act and are fixed by the taxing master. I think that other professional services, which are not at present controlled by any other means, would be difficult to handle under this measure.

What might be a large sum to pay an inexperienced medical practitioner would be a reasonable one to pay an expert in the profession, and I do not see how any Government is entitled to fix charges in such cases. There are many cases—for example, the dental profession—where the services rendered by one man may be identical in appearance but different in the result achieved. Therefore, it is not advisable to bring the professional services,

which are limited in number, under a measure of this kind, and that is why I have moved this amendment.

The MINISTER FOR LABOUR: I hope the Committee will not agree to the amendment. It is true that certain professions may have different standards, and some men may have much more knowledge and much more skill than others. Nevertheless, I do not think there will be any harm from the retention of this clause regarding services.

At the moment, I have not the newspaper cutting with me, but recently there was a statement in the Press that a particular doctor was going to charge certain fees over and above the ordinary fees if a person called a minute after 5 p.m. or did not have the money on him at the time. The medical profession can look after itself. There are very fine men in any profession; but if any individual member of any profession is going to get off the rails and any particular person has a legitimate grievance against him, there should be some redress for that person.

The reference to "services" will include plumbing and electrical services and other forms. I am sure that not for one moment would a commissioner deliberately pry into every case of every professional man. But if a complaint were referred to him regarding which he felt there were certain grounds for investigation, the person concerned should have opportunities for redress.

Amendment put and negatived.

Mr. COURT: I take it that we are now discussing the clause as amended?

The CHAIRMAN: Yes.

Mr. COURT: I object to the clause. It is the interpretation clause, and should attempt to define, as far as is legally possible, what the measure intends to do. This is a Bill which certainly does not do that. I was very interested to come across a quotation which is very much in line with the sentiments which we on this side feel about this Bill. I refer to "A History of the English-Speaking Peoples" by Sir Winston Churchill.

The CHAIRMAN: I trust that the hon. member will confine himself to this clause.

Mr. COURT: Yes. I propose to demonstrate the fact that the definitions are far from definitions, and the quotation I propose to make deals with that particular point. It is from Vol. 1, "The Birth of Britain"; Book II, "The Making of the Nation"; and Chapter V, "The English Common Law." I quote from page 175. It says—

A modern lawyer, transported to the England of Henry II's predecessor, would find himself in strange surroundings. With the system that

Henry bequeathed to his son he would feel almost at home. That is the measure of the great king's achievement. He laid the foundations of the English Common Law, upon which succeeding generations would build. Changes in the design would arise, but its main outlines were not to be altered.

It was in these fateful and formative years that the English-speaking peoples began to devise methods of determining legal disputes which survive in substance to this day. A man can only be accused of a civil or criminal offence which is clearly defined and known to the law. The judge is an umpire. He adjudicates on such evidence as the parties choose to produce. Witnesses must testify in public and on oath. They are examined and cross-examined, not by the judge, but by the litigants themselves or their legally qualified and privately hired representatives. The truth of their testimony is weighed not by the judge but by twelve "good men and true," and it is only when this jury has determined the facts that the judge is empowered to impose sentence, punishment, or penalties according to law. All this might seem very obvious, even a platitude, until one contemplates the alternative system which still dominates a large portion of the world. Under Roman law, and systems derived from it, a trial in those turbulent centuries, and in some countries even today, is often an inquisition. The judge makes his own investigation into the civil wrong or the public crime, and such investigation is largely uncontrolled. The suspect can be interrogated in private.

The Minister for Works: To what part of the clause is that relevant?

Mr. COURT: It is very relevant. The definition of "unfair trading" is not sufficiently clear to give an ordinary subject of this realm a chance to defend himself.

The Minister for Works: There is no relevancy whatever to the clause.

Mr. COURT: I will leave that to the Chairman to decide. Apparently he agrees that it is relevant. My quotation continues—

He must answer all questions put to him. His right to be represented by a legal adviser is restricted. The witnesses against him can testify in secret and in his absence. And only when these processes have been accomplished is the accusation or charge against him formulated and published.

How close that is to the position which prevails in certain parts of the world today! I consider that the definitions in this clause are not a fair thing to the

people who have to be subjected to the law, and on that ground, we oppose this clause as amended.

The PREMIER: We have just heard a very superficial expression of opinion, which I think can be torn to shreds, as it were, by a commonsense view of the actual situation with which we are faced. At present, prices for commodities are fixed, and they are fixed by private individuals and private interests. Unfair trading and unfair trading practices are indulged in today by private interests. The purpose of the Bill and the purpose of these definitions is to protect the public interests.

It does not matter from what the member for Nedlands may quote, or how high-sounding is that which he quotes. The cold fact remains that the public today has not sufficient protection in regard to prices, which are fixed by private interests all along the line, and has not sufficient protection, either, in regard to trading practices and trade competition methods, all of which are decided upon by private interests.

The difference between the attitude of the member for Nedlands and that of those who support the Bill, is that he believes in the private control of prices and the private development of trading methods and trade competition. Those who support this Bill and believe in the principles of the Bill consider that there should be a public supervision of prices in the interests of the public, and that there should be public supervision of trade competition and trading methods in the interests of the public.

Mr. COURT: This could develop into an inquisition instead of supervision.

The PREMIER: Anything could develop into an inquisition in the minds of those who desire to maintain private control for private advantage. So, summed up in a few words, the difference between the attitude of those who support the Bill and those who oppose it is that those who oppose it want to continue private control all along the line, irrespective of the public interest, and those who support the Bill want to establish legal supervision in the interests of the public.

Mr. BOVELL: Before this clause is put to the vote, I would like some reply from the Minister in regard to my comments earlier about primary producers selling their commodities on their properties. I repeat that we have stock and wool being sold on a property. What is the position of the primary producer in that event? Will he be subjected to interference by the commissioner, if and when he is appointed? I feel that the Leader of the Country Party wanted to exclude these primary producers from the provisions of this measure, and I believe that it would be in the best interests of this country for them to be excluded.

Let me repeat some figures which were given in this Chamber a few days ago to the effect that 84 per cent. of the national income is derived from primary industry, 4 per cent. from metals and timber, and 12 per cent. from secondary industry.

Mr. Johnson: They are not accurate.

Mr. BOVELL: They were quoted here, and I repeat them.

Mr. Johnson: They are still not accurate.

Mr. BOVELL: They are as accurate as we can establish. Let the Minister reply to my question as to whether primary producers selling their commodities outside of auction are to be subject to the conditions of this measure.

The MINISTER FOR LABOUR: Before the tea adjournment, I sensed the frustrating and negative attitude of members of the Liberal Party.

Mr. Bovell: Don't draw red herrings!

The MINISTER FOR LABOUR: I am not doing so. The hon. member asked me a question, and I am prefacing my reply by saying that I sensed early in this debate that certain members of the Liberal Party were going to adopt a negative and frustrating attitude. At the outset, the member for Nedlands, acting on behalf of the Leader of the Opposition and other members, indicated in no uncertain terms just what their attitude would be—a negative attitude. They were going to try to throw a spanner into the works every now and again; to adopt a stonewalling attitude. Incidentally, every member on the opposite side is a member of this Chamber, and the onus is on him to approach measures which are introduced by the Government in a responsible way.

Now I come to the particular question the member for Vasse asked. This Bill is not designed to restrict farmers. It is designed to help and protect them. Why are the members of the Country Party adopting the attitude they are? Answer me that! For the simple reason that they know that many of their constituents are being exploited and want some protection. The member for Vasse asks whether this is going to affect the farmers. The farmers are looking for protection. I have spoken to a number of them, and they have given their blessing to the Bill.

Mr. Court: The Farmers' Union has not.

The MINISTER FOR LABOUR: Any honest person has nothing to fear from this Government or from this Bill. I can give the member for Vasse this assurance: Whoever the commissioner may be—and I suggest he will be a man of great capacity and ability—the last thing he would think of doing would be to tamper with the interests of the farmers. The member for Vasse is trying to prevent the passing of

the measure and is working out what he will put forward against the next few clauses.

Mr. Bovell: In the main I represent primary producers.

The MINISTER FOR LABOUR: The hon. member misrepresents them.

Mr. BOVELL: Those in my electorate think otherwise. I asked the Minister a straightforward question but he refused to answer it. I said the Bill was designed to control both primary and secondary industries, and I want a clear statement in that regard. The Minister said the farmers he had spoken to were in favour of the Bill, but those I have spoken to and whom I represent are not in favour of it. One of my colleagues, by interjection, said the Farmers' Union was not in favour of the measure. Mr. Burges, president of the meat section of that organisation, is whole-heartedly opposed to it. In "The Farmers' Union Weekly" of the 13th September we read—

Vicious Piece of Legislation.

The President of the Meat Section of the Farmers' Union, W. G. Burgess, said yesterday that he desired to bring to the notice of members the price fixing proposals now before Parliament. He said he was firmly convinced that if the Bill should become law it would eventually become disastrous for meat producers. He strongly urged all members to get their branches and zones to call meetings to protest against such a socialistic scheme and further to induce their parliamentary representatives to make amendments or, better still, to throw out this vicious piece of legislation.

That is the voice of the farmer. The Minister has no right to speak for the farmers as he does not represent them. I represent mainly primary producers and speak with their voice.

Hon. Sir ROSS McLARTY: I strongly oppose the clause as amended, and hope that all members on this side of the Chamber will do so. I cannot see that the clause contains any definition of what is unfair profit or what are unfair trading methods. The member for Narrogin endeavoured to define an unfair profit and unfair trading methods but the Minister by the amendment he moved, completely altered the amendment of the member for Narrogin, with the result that the sky is now the limit and the commissioner can place on those terms any interpretation he wishes. The Bill as originally presented to us was bad enough—

Mr. Mann: It is worse now.

Hon. Sir ROSS McLARTY: It has certainly not been improved by the Minister's amendment and I hope the clause will not be agreed to. The member for Vasse asked what would be the position of primary

producers under this clause, and I would have liked to hear the Leader of the Country Party express his views in that regard. Provision was made for goods bona fide sold at public auction not to come under the measure but, as the result of the Minister's amendment, those goods will come under the provisions as soon as they leave the saleyard—

The Premier: The Minister's amendment was not agreed to.

Hon. Sir ROSS McLARTY: Very well. I am glad of that. The member for Vasse expressed concern about goods sold by primary producers outside the auction, and we know that many kinds of goods are sold by private treaty. I presume they would come within the scope of the measure and that primary producers could therefore be dealt with. I was not satisfied with the Minister's explanation in regard to professional services and I do not see how he could effectively control them. I know of many professional services that the Minister could not effectively control and in trying to do so, he might do the public a great disservice, in that the services now rendered might be considerably curtailed. Those concerned might say, "If we have to submit to this, we will provide a minimum of service."

The Minister for Works: The hon. member is out of order. The amendment was disposed of long ago.

Hon. Sir ROSS McLARTY: I am referring to the clause, against which I intend to vote, and I strongly urge the Committee to do likewise.

The MINISTER FOR WORKS: The Leader of the Opposition is unconvincing, as he is totally opposed to any control, no matter what definition might be put in the Bill. His words might carry more conviction if he would agree to some definition, but no matter what definitions were placed in the Bill in regard to unfair trading and unfair profits, he would still oppose the measure.

Hon. Sir Ross McLarty: Is that why you did not include any definition?

The MINISTER FOR WORKS: The Leader of the Opposition is speaking idly and is not seeking a definition, because no definition would satisfy him. The Government believes in control of unfair trading and unfair profits in the public interest. We believe the person who will be appointed commissioner will be able to interpret the wishes of Parliament in regard to unfair trading and unfair profits.

Mr. Court: That is just a hope.

The MINISTER FOR WORKS: Hope springs eternal in the human breast, so why should it not spring eternal in the breast of the Government?

Hon. Sir Ross McLarty: You are hopeless in regard to this Bill.

The MINISTER FOR WORKS: It seems hopeless when we have to listen to the tripe over the air and in the Press from those who attempt to make it impossible for the Bill to pass. The opponents of the measure are so frightened of it that they will go to any length to bring about its defeat. They are scared of it only because they wish to be permitted to carry on unfair trading and the making of unfair profits.

Mr. W. A. MANNING: I do not think we have been given the consideration we were entitled to expect in view of what the Premier said earlier in the debate on the measure. His statement seemed to convey the idea that reasonable amendments would be given consideration and that traders generally would not be harassed by the Bill. By means of my amendment, I endeavoured to ensure that normal trading would not be interfered with, but the Bill is now so wide open that anybody could be harassed as the commissioner saw fit.

Hon. A. F. WATTS: To a great extent I agree with the member for Narrogin. I left him to deal with the Minister's amendment, which I think it will be agreed he did effectively. As he says, the alteration of two simple words has made a considerable difference to the definition which he placed before the committee. His phraseology gave a definite meaning to unfair trading and unfair profits, as far as the commissioner was concerned, but now the position has been altered. Although those are two factors that the commissioner must take exception to, there are many other matters to which he could take exception if he wished, and that is why I think that, in what is substantially an experimental piece of legislation, we should not, in the first year of its operation at least, leave it in the state—so far as these definitions are concerned—in which it is now.

I voted against the inclusion of the substitute words moved by the Minister primarily because, at the time, I held the view that I am expressing now. In experimental legislation of this nature, I thought that some definite meaning would be given to these phrases that are used so often in the Bill. It would have been better, if the Minister is dissatisfied with some of the paragraphs suggested by the member for Narrogin, if he had sought to improve them so that he could give us a clear indication of what he thought should be there or what should be added, but he merely tried to substitute two words after deleting two others and those words are quite fundamental to the intention of this clause.

Where there are goods in full supply and there is absolutely free competition, there is no need for the controls that we have seen in the past. However, I have satisfied myself that there is not altogether free

competition. I am convinced that there are certain practices in operation which restrict free competition and therefore have a detrimental effect upon the public interest, and if those practices can be proved I am prepared to subscribe to some control of them. That, I take it, was the intention of the member for Narragin, but he has not arrived at the conclusion he wished to reach.

I must confess that I am not happy with the present state of the clause we are discussing. However, I say to the Leader of the Opposition that I am perfectly satisfied that the primary producer has nothing to fear from this measure so far as his own operations are concerned. With the exception of wool, he has been excluded so far as all marketing schemes covering the major primary industries in Western Australia are concerned. For nearly ten years we had price control legislation which, if one cares to examine the statute and the regulations, would have given unlimited powers to the commissioner to inquire into the affairs of primary producers, but if any member can find a primary producer whose affairs were inquired into under that legislation, I am prepared to donate £5 to the Princess Margaret Hospital for Children.

Clause, as amended, put and a division taken with the following result:—

Ayes	....	....	....	23
Noes	....	....	....	17
Majority for	....	....	....	6

Ayes.

Mr. Andrew	Mr. Marshall
Mr. Brady	Mr. Norton
Mr. Gaffy	Mr. Nulsen
Mr. Graham	Mr. O'Brien
Mr. Hall	Mr. Potter
Mr. Hawke	Mr. Rhatigan
Mr. J. Hegney	Mr. Rodoreda
Mr. W. Hegney	Mr. Sewell
Mr. Hoar	Mr. Sleeman
Mr. Jamieson	Mr. Tonkin
Mr. Johnson	Mr. May
Mr. Lapham	

(Teller.)

Noes.

Mr. Bovell	Mr. Nalder
Mr. Brand	Mr. Owen
Mr. Cornell	Mr. Perkins
Mr. Court	Mr. Roberts
Mr. Crommelin	Mr. Thorn
Mr. Grayden	Mr. Watts
Mr. Mann	Mr. Wild
Mr. W. Manning	Mr. I. Manning
Mr. Ross McLarty	

(Teller.)

Pairs.

Ayes.	Noes.
Mr. Kelly	Mr. Hearman
Mr. Toms	Mr. Oldfield
Mr. Lawrence	Mr. Hutchinson
Mr. Heal	Mr. Ackland

Clause, as amended, thus passed.

Clause 9—Administration:

Hon. A. F. WATTS: I move an amendment—

That the words "and to the direction" in lines 18 and 19, page 5, be struck out.

We have already had some discussion on an earlier part of the Bill as to where it would be undesirable for the Minister to be able to direct the Commissioner.

The Premier: I will accept the amendment.

Hon. A. F. WATTS: Very well, I need say no more.

Amendment put and passed.

Mr. NALDER: I move an amendment—

That after the word "Commissioner" in line 20, page 5, the following be added:—

subject also to the provisions of Subsection (2) of this section.

(2) For the purposes of this Act the Governor shall appoint to advise the commissioner an advisory council of six persons comprising—

- a representative of the Chamber of Manufactures;
- a representative of the Chamber of Commerce;
- a representative of the Retail Grocers' Association;
- a representative of the industrial trade unions;
- a representative of the Farmers' Union; and
- a person nominated by the Minister to represent the general public.

(3) Each member of the council, other than the person nominated by the Minister, shall be selected by the Governor from a panel of three names submitted by each of the organisations referred to in the last preceding subsection.

(4) Each member of the council shall hold office during the Governor's pleasure and shall receive such remuneration as shall be approved by the Minister and prescribed by regulation.

(5) The council shall meet whenever summoned by the commissioner but not more than one month shall elapse between each meeting.

(6) The number of members necessary to constitute a quorum shall be five and the commissioner shall be the chairman of and preside at each meeting of the council but shall have a deliberative vote only.

The amendment speaks for itself. During the second reading debate mention was made as to the advisability of appointing a committee to assist the commissioner. I said then that the commissioner who would

be appointed would be happy to have the assistance and advice of people nominated by organisations representative of the public of Western Australia. He would seek their advice on any points appertaining to the principal clauses of the Bill and be guided by such information as they might give him in relation to carrying out its provisions. It is not necessary for me to elaborate on the suggested representatives of sections of the community. When the Premier and other members on the Government benches spoke, they indicated there might be some merit in this suggestion, and I do not think the amendment needs further explication.

The MINISTER FOR LABOUR: I am sorry I must oppose this amendment. Even if we agreed to it in toto, it would not stop there. I feel the commissioner would be in the hands of the proposed council because there is another amendment on the notice paper which is to be moved either by the member for Stirling or the member for Katanning, under which certain actions to be taken by the commissioner must have the sanction of the advisory council.

Mr. Court: I do not think that is correct. They are there to advise, but I do not think that he is bound by their recommendation.

The MINISTER FOR LABOUR: If members look at the amendment proposed by the member for Katanning, they will see the constitution of the advisory council. In the last portion of the amendment it is indicated that the chairman shall be the commissioner; that he shall preside at meetings and have a deliberative vote only. I would ask: A deliberative vote on what? Does that not imply that there is going to be a meeting of the advisory council? It also implies that there are to be six members on that council. The question is then placed before the advisory council and a vote is taken.

What is the effect of the vote? The commissioner only has one deliberative vote. What is the voting going to be on? Will it be on some question of top level administration, or as to whether there is going to be an investigation or inquiry. The hon. member proposes to take out of the hands of the commissioner entirely jurisdiction over the administration of the Act and place it—and this is a misnomer here—in the hands of an advisory council. I am convinced that the hon. member honestly feels that this could be an impartial body. I would refer members again to the constitution of the advisory council as contained in the amendment moved by the member for Katanning.

Mr. Nalder: Are you opposed to the representative of the industrial trade unions?

The MINISTER FOR LABOUR: I will indicate what I suggest before I sit down. The amendment, if carried, would mean an advisory council consisting of six members, which would make it impossible for the

commissioner to administer the Act effectively with such an advisory body. It is proposed to appoint one representative from the Retail Grocers' Association, but I would ask why not appoint one from the Retail Traders' Association, the stock Brokers' Association, or the Licensed Victuallers' Association?

Mr. Nalder: That is going from the sublime to the ridiculous.

The MINISTER FOR LABOUR: That interjection leads me to indicate that provision for an advisory committee is already covered by Clause 17 which empowers the commissioner, on the advice of the Minister, to appoint advisers, where necessary, to inquire into the ramifications of diverse industries. If the appointment of the six representatives is agreed to, let us see what would happen when they have to advise on an industry with which none of them is conversant.

Under the proposal in Clause 17 the commissioner could invite persons with the requisite knowledge of any particular industry to advise him. That clause is elastic, as will be seen from its wording. Without going into details, I do not think the amendment before the Chair would cover the position adequately, but the provision in Clause 17 would. However, I shall give favourable consideration to inserting a clause in another place for an advisory committee of two members to be appointed.

Mr. Court: The amendment does not stop the operation of Clause 17.

The MINISTER FOR LABOUR: If the member for Katanning considers there should be an advisory council in addition to the provision in Clause 17, I am agreeable to the appointment of a committee of two. Under the amendment, machinery will be set up where the commissioner will have only a deliberative vote. No matter how capable the representative of the trade union or the person nominated by the Minister were, they would vote blindly on many matters inquired into by the commissioner. The amendment is laudable in its intention but I am satisfied that it would not tend towards expeditious administration of the Act, that it would prolong the proceedings and hamstring the powers of the commissioner. On the other hand, if he can call in advisers for particular industries or callings—

Hon. D. Brand: Only if he thinks fit.

The MINISTER FOR LABOUR: Would the hon. member not consider calling in advisers wherever necessary, if he were the commissioner? That is putting the position fairly. No doubt he would call in the advisers to help him in his work. I cannot agree to the amendment, but if the member for Katanning thinks there is merit in a committee of two, I will give favourable consideration to it.

Mr. NALDER: It appears that the Minister is not prepared to accept many amendments from this side of the House. They have been put up in good faith to assist the commissioner to carry out his job. The Minister suggested that it will be impossible for the commissioner to carry out his work with an advisory council of six. Apparently, the Minister considers that those representatives will be appointed with the sole object of interfering with the work of the commissioner. The idea is to assist him in his duties and he would no doubt seek the advice of all sections of the community. If this is the way the Minister treats the amendments put up by this side of the Chamber, I can say that the Bill will be opposed.

Mr. MAY: When the debate on the second reading took place, almost every Opposition member who spoke said that this Bill would be the means for creating another very large Government department. In this respect, the Opposition should be consistent and logical because the amendment proposes to set up a committee of six representatives who are to be remunerated at the discretion of the Minister. The suggestion put up by the Minister would fill the need without the appointment of an advisory council of six members. I feel that the proposal foreshadowed by the Minister will meet the case and will certainly be the means of lessening the expense of this department when it is eventually set up.

Hon. D. BRAND: I support the amendment moved by the member for Katanning because it obviates many of the difficulties and dangers which we, as a whole on this side of the Chamber, have seen in the appointment of one man with the authority it is intended he shall have under this Bill. I do not see that an advisory council of six responsible people representing all those concerned in trade and commerce would hold up any decisions. It would act in an advisory capacity and deal with major problems arising as well as the general policy of the administering the department.

Mr. JOHNSON: You have not read the other proposed amendments yet.

Hon. D. BRAND: I am under the impression that the Government has brought this Bill here as an alternative to what the Premier called a cumbersome method of price fixing. I gather from the speeches made by many, particularly those on the Treasury bench, that they are after those who make the profits.

Mr. JOHNSON: The unfair profits.

The Minister for Works: Unfair profits against the public interest.

Hon. D. BRAND: I imagine this alternative scheme just something of a general set-up to deal only with the major problems associated with big firms making large profits. Therefore, I cannot see why the advisory council, which is envisaged

by the member for Katanning, is anything but helpful. If the Government were really sincere in regard to the Bill and what it hoped to achieve by it, the amendment would be accepted, because it would cover the basic problem in the minds of all of us, not only here but perhaps in another place.

They would have the safeguard of those people who are vitally concerned—the employer and employee, the manufacturer and the primary producer. I urge the Minister to accept this amendment because I believe it will then make the Bill less dangerous to the people concerned and will assist it to find its way on to the statute book. With regard to the commissioner calling in advisers, once again it is left entirely to him. He calls in people who, no doubt, he would expect to take up his line of thought. He is not likely to ask for the support or assistance in an inquiry of someone who is not going to think as he does or is not going to think along the same lines as the Government which appointed him.

I give the Minister an instance which took place in this House in regard to an inquiry that was moved by the Leader of the Country Party with respect to a certain big industrial tractor-making industry. The Government would accept it only on certain conditions. I think the Premier included himself, the member for Stirling, the member for Nedlands, who is an accountant, and the member for the district who was put there obviously for one reason. Therefore, that procedure could be adopted if the commissioner himself, under the proposed set-up in this legislation, could appoint advisers just to give him moral support to achieve the very result which the people in this State are very much afraid of.

Mr. JOHNSON: The proposed amendment I feel has some merit and "some" is the word which is of importance in that statement. As I stated in my speech on the second reading, I have rather a liking for the idea of an advisory committee under the commissioner, but I cannot regard the six persons mentioned in the proposed amendment as being a balanced team. When we get a team of six, four of whom belong to the exploiting group, at least then it—

Hon. Sir Ross McLarty: What do you mean?

Mr. JOHNSON: —tends to be an unbalanced commission.

Mr. COURT: Which four?

Mr. JOHNSON: The representative of the Chamber of Manufactures, who exploits the manufacturers, the representative of the Chamber of Commerce who exploits the people to whom he sells goods, the Retail Grocers' Association who has the same interests, and the representative

of the Farmers' Union, who is also on the selling side. All these are to some extent exploiters and to some extent exploited in relation to where they stand in each particular transaction, but, so far as the consuming public is concerned, there is only one nominated to represent them and one to represent another special interest in the form of the industrial trade unions.

Admittedly, the representative of the industrial trade unions would normally have a similar interest to that of the person representing the general public because, in the main, the trade unions and the general public are the same people. Whilst I agree with the principle of an advisory council, I think we have the ideal people already there in a balanced form and with a balanced background, and if I imagined there was any hope of the amendment going through this Chamber in an amended form, the amendment I would move under these circumstances would be to reduce the number from six to three and nominate the present employers and employees' representative on the State Arbitration Court.

Those people are a balanced team whose decisions we are used to accepting, and who are well regarded by the public. They deal with the same moral question of what is fair and reasonable. They deal with it against a background of economics. They have a knowledge of what actually takes place with regard to the householder and they have a detailed knowledge and rights of inspection in relation to manufacturers and all sorts of trades. They are an ideal group who have been, as nearly as we can manage to make them, insulated from the hurly-burly of special interests such as chambers of commerce, chambers of manufactures and trade unions.

I would wish that the Minister, when dealing with the proposal to put forward an advisory council in another place, would give consideration to that group to act as the advisory council. I trust that the members of the Country Party, who are of the opinion that an advisory council is needed, will get behind that group which cannot be accused of holding any special interest. I feel that the proposed commissioner would be pleased to have their advice. I am not suggesting that the advice would be direction because in the amendment I envisage, I have said that the council shall consist of people to advise.

A later clause refers to the exercise or the causing to exercise of the powers, and a period is mentioned. If that period could be shortened, then we would have the situation of the commissioner putting a *prima facie* case before people who are already experienced and saying to them, "Should I go on with it, or should I not?" It would go before a body that we are all prepared to accept.

The idea is well worth a detailed examination. I trust that those who maintain that there is an extreme difference between this measure and the arbitration legislation will try to compare the Bill not with the Arbitration Act as it stands, but with the Arbitration Act in its formative years. They will then find it is a very useful step towards a more orderly economy. I appeal to members to consider that group of persons whom we trust with a large degree of responsibility in our economic life, and I ask them to put their trust in that group as advisers to the proposed commissioner. I put this idea forward in the hope that it will be accepted by all sides of the Chamber because I can see no possible arguments to maintain that these persons are not such as we can trust.

Hon. A. F. WATTS: If there is one thing more than another that we want to do in this measure, if it is to become an Act, especially in its first year is to ensure that all sections of the public have confidence in the operations of the commissioner. Fears have been expressed, some, I think, quite *bona fide* and others not, that the operations of this legislation, which is breaking new ground, may be of such a nature as to inflict trouble and hardship upon people who do not deserve it. If it is to become an Act it is essential that this fear, especially when it is *bona fide* held, should be removed as soon as possible. I know of nothing more likely to remove it than the appointment of some representative body, particularly in the first periods of the legislation, to advise the commissioner; and I know of no better way of achieving that advisory body than by getting it through representation, fairly balanced, of the community.

I am not going to say that the selection in the amendment, which the member for Katanning has led up to in his speech, is absolutely perfect. It could probably be improved upon, but I suggest that if the advisory body does not include representation from the business community, it will almost certainly fail to achieve its purpose which, I think, I might summarise by saying that it would tender to the commissioner such advice as would ensure that the legislation would work smoothly.

Let me point out to the Minister that the amendment that we are now discussing—that is, the appointment of this advisory council—contains nothing to give it any powers other than those of an advisory nature. If he is going to question subsequently any other amendments that are proposed, having reference to this council, that is a different matter, but at the moment he is not asked to give that body any powers other than advisory. He has taken exception to the fact that the commissioner is to have only a deliberative vote, and therefore by some queer method of reasoning he has assumed

that because it is suggested that the matter should be put to the majority vote of the council it goes beyond advice.

I do not think that is so. How on earth can a body of this nature tender advice unless the majority are in favour of that particular piece of advice? And the only way to get the majority view is to say, "Five for and three against," or whatever the case may be. There would otherwise be no means of finding out if the council was in favour of the advice being tendered. Unquestionably I would have thought that, from the Minister's point of view, it would be a far fairer method than to allow someone to make a suggestion and no determination to be arrived at upon it.

Then again, I notice, too, that the amendment requires a minimum of five for the quorum. Obviously a meeting could not be held unless there was a representative attendance, which, I think, was a wise provision. I see no fundamental objection to this proposal and believe the success of the measure will stand or fall by the presence or absence of a worth-while provision of this nature—as far as I am concerned, it certainly will. I think on this occasion the member for Leederville apparently gave the matter considerable thought, and I will not be critical of what he said. He proposed that the members of the present Industrial Arbitration Court bench might make the best advisory council or committee, but in the circumstances surrounding this legislation I do not think they would.

Those gentlemen are accustomed to making determinations after the lengthiest evidence has been submitted to them and they have little or no knowledge of the details of some occupations, apart from that evidence, and so, even with whatever knowledge they might have in view of evidence they had heard in regard to various occupations, they would not have the slightest knowledge of the intricacies of the world of trade, and there are intricacies and difficulties facing the most honest and industrious trader in the country.

One must have some knowledge of those intricacies fairly to assess the position and I say, with the greatest respect, that the gentlemen to whom I have referred would not have the necessary knowledge and would not, in regard to this matter, have an opportunity to obtain it. I therefore think the suggested type of advisory council is much to be preferred and I hope the Minister will reconsider his views on this question.

As regards the alleged ill-balanced nature of the proposed council, it is true that the first two representatives, having been selected from panels of three nominated by their respective organisations, would come from the Chamber of Manufactures and the Chamber of Commerce. I can imagine there being two very reputable gentlemen who could be selected from

those organisations and who would conceive it to be their duty—notwithstanding the association that they have had over a period of many years—to give fair treatment to everyone concerned.

We come next to the Retail Grocers' Association, the members of which I believe are mostly trading in country districts, as opposed to what I believe is called the Retail Traders' Association, most of the members of which I understand are to be found in the metropolitan area. Therefore there was brought in, for what it was worth, a representative of those who carried on their trading avocation outside the City of Perth.

Now we come to the industrial trade unions. Had this been an ill-balanced proposal, I would have thought that those who invented it would have left out any reference to industrial trade unions having a nominee on the council. In my view, they are just as much entitled to representation and just as likely to see fair play to all concerned as would be the representative of the other organisations that I have referred to.

Then we have the Farmers' Union. I decline to agree with the member for Leederville that that organisation should, by any stretch of the imagination, be included in a list of exploiters, even if I could agree—and I cannot at this juncture—that the other interests mentioned should be so included. I would have thought that in all the circumstances there could not be a more unbiased fraternity in a matter of this kind than the Farmers' Union. Unless I misunderstand the position entirely, the majority of members of that organisation would be most interested in discovering what practices or trading methods impose undue obligations on them at a time when they are feeling the effects of rising costs and, not very clearly, rising prices.

Lastly, there is the nomination of the general public's representative by the Minister and that seemed to me to be the ideal finish because it left him with a completely free list. The Minister could bring in anyone he wanted to, and I think it is a very well balanced proposition. Turning to the provision that the commissioner may, if he thinks fit and the Minister approves, appoint advisers, I do not doubt he could and I should hope he would, even if he had an advisory council.

I would not interfere with the proposals in that clause because it seems to me that, quite apart from the general advice, under the clause we are now dealing with, given him by the advisory council, there would be times when he would of necessity have to call in somebody expert in a particular occupation, and particularly when dealing with such a phase as professional services or conglomerate tradesmen's services, which neither the Chamber of Commerce, nor probably the industrial unions' representative, would know much about.

The point I want to press on the Minister is that I do not think he will succeed in placing this legislation on the statute book unless he takes steps to remove the apprehension which, bona fide, does exist in some quarters, especially in the early stages of the legislation, and which I think he will remove by a proposal such as this.

THE MINISTER FOR LABOUR: The proposal of the member for Katanning is for a large advisory council and I do not see how such a body would help the commissioner. The requirement is that they have to meet once per month and, despite what the member for Stirling says, there is room for a deliberative vote, and that has reference to a further amendment in the name of the member for Stirling—

Hon. A. F. Watts: You need not have that if you have this one.

THE MINISTER FOR LABOUR: I suggest that the facts and figures, balance sheets and profit and loss accounts would have to be put before the six members.

Hon. A. F. Watts: I think you are getting too deep altogether. This is to advise on principles.

THE MINISTER FOR LABOUR: That is what I am leading up to. There would be nothing to stop the commissioner from getting advice on certain aspects. If I had anything to do with it I would say, "We will call in representative people for particular cases". There could be two, five or even half a dozen, but they would not be a statutory advisory council. When other industries or callings had to be considered, and possibly inquiries made in regard to their ramifications, we would say, "We will get experts in that particular field". But the set-up envisaged by the hon. member would be an advisory council with voting powers, and it must meet at least once a month. There would be a lot of disputation and the commissioner would be hamstrung. On the other hand, if the clause, as it is now set out in the Bill, were adopted, it would be much more elastic.

If the commissioner found it necessary or thought it advisable to have an advisory council of the number and nature mentioned in the amendment, there would be nothing to stop him from having it. But if he wants to have a change of advisers in regard to a particular trade, he should not be bogged down by having an advisory council of the same advisers all the time. The member for Leederville gave consideration to his proposition. I agree on the face of it that it looks sound, but I suggest that the Arbitration Court has a full-time job now and I think there would be opposition from the unions and the employers' organisations if the court were to remove itself periodically and place itself in the position of an advisory body to the commissioner.

Mr. Court: It would have to be kept ready for an emergency, too.

THE MINISTER FOR LABOUR: That is so. The president of the court is a legally trained man but with all due respect to the two lay members, although they have a wide knowledge of industrial and general affairs, it would still be necessary to tap various sources to get expert advice in certain directions.

Hon. A. F. Watts: To advise the council in that case.

THE MINISTER FOR LABOUR: That is the position as I see it, and I regret that I must oppose the amendment.

Hon. A. F. Watts: There is very little more I want to say but there is one aspect I would like to make clear to the Minister. I believe that the intention of introducing the amendment was to improve and not make more difficulties in this measure. These amendments have been on the notice paper for a fortnight and I am surprised, in view of what the Minister has said, that in that time there has not been a counter amendment of some sort also placed on the notice paper so that members could give consideration to it as an alternative to the amendment that has been moved. During that time we could have given consideration to the Government's proposal in the same way as ours have doubtless been considered by the Minister.

The difficulties that we have in getting amendments drafted are much greater than those of the Minister who has the whole panoply of the Crown Law Department behind him, as I well realise from past experience. Yet we succeeded in getting substantial amendments on the notice paper within seven or eight days of the introduction of the Bill. I cannot resist that reproof of the hon. gentleman, and, like the schoolmaster, I say, "I hope it will not occur again".

Mr. NALDER: The object of the amendment was to make the Bill workable, if at all possible. The main objection that has been raised against the measure is that the commissioner will have all-embracing powers; he will be set up as a dictator; and the idea of this amendment is to provide advice for the commissioner. If it were adopted, it would give the public of Western Australia the confidence that they need when the Government brings down legislation of this nature. If the amendment were adopted, the public would be able to say, "The commissioner will have the advice of people who are nominated by their various representative bodies and they will have a knowledge of the situation; they will advise the commissioner in regard to those aspects." So I regret that the Minister is not prepared to agree to it.

Mr. W. A. MANNING: I regret that the Minister has not seen fit to accept the amendment because I feel that we should do everything possible to protect the innocent party. It is all very well to have clauses dealing with those who have conducted unfair trading; but, in a case such as this, it would be easy to implicate an innocent person and I think we should take the risk of even allowing some guilty person to get away with it in order to safeguard those who are trading honestly. Because of the provisions of this Bill, if a mistake were made, such a person could have his whole business ruined.

If a council such as is envisaged in the amendment were provided, its members could advise the commissioner and could safeguard the position and prevent any misapplication of the Act. I feel that not enough emphasis has been given to that side of the question. I think members will agree that it is important, if we are going to control unfair practices, to ensure that we are not going to damage the individual who conducts his business on fair and decent lines. The problems associated with business today are real and we have to be extremely careful we do not damage the economic structure of the State. Therefore, a course such as this is necessary to achieve that object.

Mr. JOHNSON: I disagree with such eminent persons as the Minister and the Leader of the Country Party in the assumption that the members of the Arbitration Court in this State are not suitable persons to advise the commissioner. Although members of that court are extremely busy, no doubt advice could be given quite easily and sometimes without a great deal of knowledge being required. The members of that court, however, have a background knowledge of practically every trade and profession and of every phase of commerce.

An advisory council should be one that is acceptable to the general public and there is no section of the community that does not accept that court as being completely trustworthy. I can assure the member for Katanning that some of these bodies which are specially interested are not regarded with trust by everybody. The reason why I put forward the case for the Arbitration Court is that no one mistrusts the members of that court.

Mr. Court: Do you trust the Arbitration Court?

Mr. JOHNSON: Yes.

Mr. Court: I have very vivid recollections of some remark which you passed about the Arbitration Court before the present president was appointed, which were not very complimentary.

Mr. JOHNSON: I said that I thought it was exceeding its authority. However, that is beside the point. The point is that we have people who are thoroughly trusted

and they are the ones who should be appointed as advisers to the commissioner. The commissioner has to submit to the advisory council only a prima facie case. The Bill gives to the commissioner a great deal of power and he would refer only matters of principle to the advisory body.

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

Ayes	18
Noes	22

Majority against	4
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Ayes.

Mr. Bovell	Sir Ross McLarty
Mr. Brand	Mr. Nalder
Mr. Cornell	Mr. Owen
Mr. Court	Mr. Perkins
Mr. Crommellin	Mr. Roberts
Mr. Grayden	Mr. Thorn
Mr. Johnson	Mr. Watts
Mr. Mann	Mr. Wild
Mr. W. Manning	Mr. I. Manning

(Teller.)

Noes.

Mr. Andrew	Mr. Marshall
Mr. Brady	Mr. Norton
Mr. Evans	Mr. Nilsen
Mr. Gaffy	Mr. O'Brien
Mr. Graham	Mr. Potter
Mr. Hall	Mr. Rhatigan
Mr. Hawke	Mr. Rodoreda
Mr. W. Hegney	Mr. Sewell
Mr. Hoar	Mr. Sleeman
Mr. Jamieson	Mr. Tonkin
Mr. Lapham	Mr. May

(Teller.)

Pairs.

Ayes.	Noes.
Mr. Hearman	Mr. Kelly
Mr. Oldfield	Mr. Toms
Mr. Hutchinson	Mr. Lawrence
Mr. Ackland	Mr. Heal

Amendment thus negatived.

Clause, as previously amended, agreed to.

Clause 10—Cost of administration:

Mr. I. W. MANNING: I am interested to know how much a department required to administer this legislation effectively would cost and what sum of money Parliament would be asked to appropriate for that purpose.

The MINISTER FOR LABOUR: Ordinarily I would ask the member for Harvey to put his question on the notice paper. However, I would point out that the clause is a customary one which is required in any piece of legislation when there is to be an imposition of expense on the Crown. If this is necessary, it will be for Parliament to appropriate the money and for the Treasurer to determine what should be done.

Mr. I. W. MANNING: Surely the Government has some idea as to how large the department envisaged under this legislation will be! The Government has had previous experience in matters of this kind during the price-fixing period. The Treasurer must have some knowledge of the amount of money he will ask Parliament to appropriate for this purpose. Cannot the Minister tell us?

The MINISTER FOR LABOUR: No, not at this stage. Much would depend on the salaries to be paid to the officers. It all depends on circumstances. Those appointed would be highly skilled men and it is hoped not too great a number will be required. I assure the hon. member that due regard will be given to the question of cost.

Mr. BOVELL: Surely the Minister must have some idea as to the salary that will be offered to the commissioner! The Government would not draw up a Bill of this nature without giving some thought to the salary it would offer to a suitable commissioner. Under the Betting Control Act, the commissioner draws a higher salary than the Commissioner of Police.

Mr. COURT: The Minister should make some forecast of what is in his mind. The top people in the department will of necessity be highly skilled men who cannot be obtained in a hurry and the Government must have given some thought as to the cost that will be involved. A Government amendment envisages a fairly permanent special department to consider special applications and this would necessitate the employment of several more people than would the Bill in its original form. Staff must be appointed to deal with the number of applications that will be made. It would not take long for this department to run up a cost of £100,000 a year. The department would expand. We all know that once a Government department is created, it is difficult to stop it from expanding, try as hard as we may. If the Minister considers £100,000 to be a reckless estimate, he should say so, because cost is one aspect that has been criticised in this Bill.

The PREMIER: In answer to the member for Nedlands I would say that the "guesstimate" would, in practice, be very wide of the mark. It has been pointed out that the Bill is framed to enable the commissioner to investigate the individual instead of a section of industry or an entire industry. All we could do at this stage would be to make a very rough estimate. A considerable amount would depend on the deterrent effect that a law of this kind would have. My own view is that it would be considerable. In other words, the fact that there is a law such as this on the statute book would have a good disciplinary effect, and there would not be the necessity to build up a large staff. Nor do I agree with the member for Nedlands that once a Government department is established, it continues to increase. That is not the case at all.

Mr. Roberts: Price fixing did that.

The PREMIER: It did for a time but during the later stages the staff was reduced considerably.

Mr. Court: Are you going to make a "guesstimate"?

The PREMIER: No. The commissioner would develop an organisation along the most practical and economical lines possible. Instead of having a large permanent staff, he would use the set-up contained in Clause 17 of the Bill, and for a time employ experts to advise on a particular problem. As soon as their advice was given, whether or not acted upon by the commissioner, they would no longer be a charge on the Government. In regard to the salary which might be paid to the commissioner, it will have to be a very good one if we are to attract a person who is capable of fairly and efficiently doing the job.

Mr. Nalder: Would applications be called?

The PREMIER: Applications would be called for the position and the salary would be decided upon before they were called.

Mr. Roberts: Some people might accept the position without any salary.

The PREMIER: I do not know whether the member for Bunbury is suggesting that he is prepared to resign his seat to accept the position.

Mr. Bovell: He could retain his seat at the same time because it would not be an office of profit.

The PREMIER: It would be an office of profit. The member for Vasse should not allow anyone to lead him into trouble thinking along those lines.

Mr. Bovell: You are suggesting that the commissioner could have an income other than his salary.

The PREMIER: I am suggesting that if a person took this position without any payment, he would be accepting an office of profit under the Crown. The fact that he would not receive any payment would make no difference. The salary offered in the advertisement calling for applications would be an adequate one and certainly it would be one of some considerable dimensions. In the event of this Bill becoming law, everybody concerned, whether in favour of or opposed to the legislation, would be anxious to see the best possible man appointed as commissioner.

Mr. I. W. MANNING: I am interested to know what the Government has planned in the matter of salaries. I expressed some concern that the Treasurer did not indicate very clearly the size of the department to be established or the cost thereof. If it is to be £100,000 a year, and that is the figure I have estimated—

The Minister for Labour: On what do you base the estimate of £100,000?

Mr. I. W. MANNING:—then the charge on the Treasury for this legislation would far out-weigh any advantage to be gained by the community. The Treasurer should have looked at that angle very deeply. If he believes there is not a great deal of profiteering going on, and he is only after

certain organisations, I suggest that it is poor business to spend £100,000 to achieve that end. He could leave them well alone and approach the problem in a less expensive manner.

The PREMIER: Whatever the cost, the saving to the public would be many times greater. The commissioner would not need to refuse an increase of any great extent, or to impose a reduction in price to any great extent to save a very great amount to the community if the commodity in question were in daily use. The savings over a year could be very great indeed. I remember Mr. Playford, the Premier of South Australia, giving an instance at the Premiers' Conference in Canberra where the public in that State had been saved very large sums of money in a year by virtue of the reductions which the Commissioner of Prices in South Australia had brought into effect. If the cost of administering this legislation were to be £30,000 per annum, that cost could be saved five times over in benefit to the general community.

Clause put and passed.

Clause 11—Appointment of commissioner:

Mr. COURT: This clause deals with the appointment of the commissioner and provides that—

The Governor may appoint to the office for such term, at such a remuneration and subject to such conditions of service as the Governor determines, and is hereby authorised to determine, a person having experience in commercial, business and trading affairs.

When the Premier answered an interjection during the second reading debate, he said the appointment would be made outside the Civil Service. On reading the Bill through quickly at the time, I was not aware of Clause 12, and particularly paragraph (d) which does envisage that the commissioner appointed under Clause 12 could be an officer within the meaning of the Public Service Act.

I raise this point because no doubt the Premier had good reason for saying that the appointment would be made outside the Civil Service. I imagine difficulty will be experienced in obtaining the services of a person with the commercial qualifications and experience to undertake this job satisfactorily. We must credit the Government with sufficient foresight to have given this matter some thought, and no doubt the Government has some person in mind. In considering who he is, we must have regard to the fact that he needs to be a superman and he will have to possess extraordinary powers if he is to be successful and fair in administering the Act.

Not only has he to investigate, but he has to call and examine witnesses, call for information of an unlimited nature, use that information almost in any way he likes, and set out rules of evidence. In relation to deciding a case against a person, he will have to carry out the functions normally entrusted to a person of great judicial training. Now that the Government has decided against an advisory council, the commissioner must undertake the impossible. In times of war and other emergencies, it is often necessary to entrust a man with far-reaching powers, but in these times it is not so vital to do that. I would like to hear from the Premier whether it is intended to make the appointment from outside the Civil Service, or whether on subsequent reflection, following his introduction of the Bill, and in view of the provisions of Clause 12, the appointment will come from the Civil Service.

The PREMIER: I would say that applications will be called both from within and without the service. Obviously, the Government would be anxious to have the widest possible choice. In the normal course of events, the Government would, I think, choose an applicant from outside the service provided he was considered to have superior qualifications and superior experience, and provided he was regarded as being better for the job. However, the position could arise where the applicants from outside the service might not be as good, in all respects, as an applicant from within the service. That could more particularly apply if this proposed law were to be restricted to one year or may be two.

If the legislation were to be restricted, we might find it difficult to get a highly qualified applicant from outside the Public Service to give up his present occupation to take on a job with the Government that might not last for more than 12 months or two years if the second period became the life of the proposed law. The answer to the member for Nedlands is that the Government would call applications in the first place, at the same time, from outside as well as from inside the Public Service. Provided the Government was satisfied that an applicant from outside had the necessary qualifications and practical experience in trade, commerce and industry, preference would be given to his appointment.

Mr. Court: Is it a fair question to ask whether you have a person earmarked for the job?

The PREMIER: I give the hon. member, and others, the assurance that no one has been pinpointed or earmarked for the position.

Mr. BOVELL: Would paragraph (b) of Clause 11 exclude the appointment to this position of a member of the judiciary? I can imagine that the services of a legal man might be required, but not many

members of the judiciary of Western Australia have had training in commercial, business and trading affairs.

The PREMIER: Unless a member of the judiciary had experience in commercial, business and trading affairs, this provision would certainly prohibit consideration of his appointment. In addition, I would say that the person needed for the position of commissioner would be a person requiring not so much legal training and knowledge as experience of a practical character and therefore factual knowledge of some branch of trade, industry or commerce.

Clause put and passed.

Clause 12—Appointment of staff:

Hon. A. F. WATTS: I move an amendment—

That after the word "may" in line 1, page 6, the words "on the recommendation of the commissioner" be inserted.

I do not think any appointment should be made to the staff of this concern without the recommendation of the head of it.

The Minister for Labour: I have no objection to the amendment.

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

Clause 13—General powers of commissioner:

Hon. A. F. WATTS: As I understand the use of the words "as are prescribed", it is either by the Act or the regulations made under it. I do not want to give the commissioner any immunities that are not provided for by this legislation, or any powers that are not subscribed to by Parliament. I therefore move an amendment—

That after the word "prescribed" in line 33, page 6, the words "by this Act" be added.

The MINISTER FOR LABOUR: The member for Stirling is being over-cautious. This is not an unusual clause in certain Acts of Parliament. The Interpretation Act provides that when the word "prescribed" is used, it means by the Act and by the regulations. It is not suggested that the commissioner would be hemmed in by a multitude of regulations. It is not necessary to have these words added, but if the member for Stirling thinks it is, then I have no strong objection. However, the regulations that would be made would be in accordance with the provisions of the Act, and they would have to be tabled and could be disallowed. I think that the hon. member should not persist in the amendment. At this stage I think the amendment should be opposed.

Hon. A. F. WATTS: I do not think the amendment is as unimportant as the Minister seems to imagine. The power to make regulations under the legislation is

considerable and there is nothing in the Bill to minimise it. It is possible to add powers by means of regulations and in a measure such as this I do not think we are justified in having any power or immunity which is not prescribed by Parliament, because a regulation could be made the day after Parliament rose—it has been done on occasions—and it would remain in operation, if it were disallowed at all, until at least one month after Parliament resumed sitting—a period which is frequently seven months.

Therefore we could have a most undesirable regulation in operation for that length of time. If the Minister wishes to add any power for the commissioner, which is not at present in the measure, let him bring it forward so that it can be dealt with. Do not let us have additional powers conferred by regulation in the circumstances to which I have referred.

Mr. BOVELL: It would be dangerous to agree to the clause without including the words sought to be added. I have heard members on both sides of the Chamber condemn government by regulation. This legislation is so far-reaching that any further powers should be brought before Parliament for ratification. I support the amendment.

Mr. COURT: There are other and later provisions on which I wish to comment and this amendment is pertinent to them. I think we should be careful to restrict in some way the powers of the commissioner. He will have widely prescribed immunities which a trader does not enjoy, and under the provisions of later clauses the most innocent trader could be subjected to a severe buffeting in the course of an investigation, with no recourse at all.

The MINISTER FOR LABOUR: The member for Stirling suggests that five minutes after Parliament rises the Act could be proclaimed and regulations gazetted, having the power of law until one month after the commencement of the next session of Parliament. If there is any doubt remaining in that regard I will withdraw my objection to the amendment.

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

Clause 14—Delegation of powers:

Hon. A. F. WATTS: I intend to vote against the clause and will refer to what the Premier said in this regard during the debate on the second reading. He said that the commissioner himself would make all inquiries which he deemed reasonable in matters of this kind; in other words, the commissioner could not delegate his powers, and I think that is the proper way of handling it. Unfortunately the Premier was not correct in making that statement as this clause places no limitation on the power of the commissioner to delegate his powers.

The general outline of governmental statements in regard to this matter is that a person is to be appointed who will have qualifications and experience such as will render it obvious that he is a suitable person to appoint as commissioner. Assuming he is appointed and wants to undertake something at a distance from his office, he would delegate his powers to somebody else not equally qualified and without the same experience. I thought that, as the Premier said, the power of delegation would not exist, but I will vote against this provision and I hope the Committee does so.

The MINISTER FOR LABOUR: I hope the Committee will not agree with the Leader of the Country Party. If the hon. member is out of the State or takes a well-earned holiday, his deputy acts for him. That is one of the main reasons why the power of delegation is included. If the commissioner takes recreation or sick leave, there must be some one entitled to take his place.

Mr. Court: That is in the previous clause.

Mr. Nalder: Do you not know your own Bill? What about paragraph (b) of Clause 12?

The MINISTER FOR LABOUR: That refers to the appointment of an acting commissioner.

Mr. Nalder: That covers the case you have been putting up.

The MINISTER FOR LABOUR: I would remind members that this is exactly the same provision as was in the Prices Control Act, 1948, which was agreed to by a Liberal-Country Party Government.

Mr. Court: You said this will not be an all-embracing measure, but it will be more specific.

The MINISTER FOR LABOUR: I think the commissioner should have the power to delegate his authority, except the power of delegation.

Hon. A. F. WATTS: The Minister starts from wrong premises and arrives at an incorrect conclusion in this case, because the premise he starts from is that this proposal is to apply during the absence of the commissioner. It is to do nothing of the kind because provision for the absence of the commissioner is made in paragraph (b) of Clause 12.

The Minister for Works: But he would not have the powers of the commissioner.

Hon. A. F. WATTS: There is no question about the ability of the Governor to appoint somebody to do the job when the commissioner is not available for any reason, but the power of delegation—

The Premier: Would you agree to insert after the word "delegation" in line 37 the words, "to the acting commissioner?"

Hon. A. F. WATTS: Yes, I would.

The PREMIER: I move an amendment—

That after the word "delegation" in line 37, page 6, the words "to the acting commissioner" be inserted.

If this amendment is carried, I think it will be necessary to delete the word "delegate" in line 39. If the amendment is accepted, it will give the commissioner the right to delegate his powers and functions to the acting commissioner which would mean that, in the event of the commissioner being away on sick leave, or for some other purpose, and the Governor appointed an acting commissioner, the commissioner could delegate his powers and authority to that acting commissioner.

Mr. Nalder: Would not they be delegated by the appointment of the acting commissioner?

The PREMIER: I think not.

Mr. BOVELL: I consider this unnecessary duplication. Paragraph (b) of Clause 12 gives the Governor power to appoint a person to be called the acting commissioner. Are we going to have a commissioner and an acting commissioner and when the commissioner goes away he delegates his powers to the acting commissioner? Under paragraph (b) the Governor will appoint a person to be an acting commissioner and then the commissioner will have to delegate his powers to that person.

The Minister for Works: What is there in the Bill to say that the acting commissioner shall have the powers of the commissioner?

Mr. BOVELL: Paragraph (b) of Clause 12 covers that. The acting commissioner will have the same powers as the commissioner if he is appointed by the Governor.

The Minister for Works: Not necessarily.

Mr. BOVELL: In that case, the commissioner could override the Governor and he could refuse to delegate his powers to the acting commissioner appointed by the Governor.

The PREMIER: I think there might be something in the point of view presented by the member for Vasse, and I ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Hon. A. F. WATTS: The Minister referred to the Prices Control Act. I did not see, and I do not now see, any objection to a delegation of the power to fix the minimum or maximum price; but I have considerable objection to delegating some of the authorities in this legislation when, as I said, we have had impressed upon us the necessity of appointing some person who is particularly suitable for this kind of position by virtue of his experience, ability and capacity for fair play, etc. We will give him an opportunity to delegate all his powers for an indeterminate period

apparently to somebody who possesses none of these qualifications. I would not have objected to them being delegated to the acting commissioner, but I am strongly opposed to the clause as it now stands.

Mr. COURT: The Minister in charge, as well as the Premier, has reiterated several times the fact that the commissioner will be a man with some special qualifications and we know that if he is to be able to do the job, he really will be a man of special qualifications. It would be a catastrophe if this man were able to delegate to anybody other than the acting commissioner, all these sweeping powers. Therefore I feel that it is impossible to regard this as being on all-fours with the Prices Control Act to which the Minister referred. Under that Act there were many minor duties that were required to get the department functioning. The commissioner under that Act would have been unable to function without having the power of delegation.

However, it has been impressed upon us tonight that this is to be a different form of control, a more specific form and a more difficult form of control, and therefore the power of delegation must be very restricted. I consider that Clause 12(b) amply covers the position. That will ensure continuity in the office, and I feel sure that the power of delegation at this stage is most dangerous and unnecessary.

The MINISTER FOR LABOUR: I referred to annual leave and about a person being indisposed. The Arbitration Court often refers certain cases or delegates its powers to a conciliation commissioner.

Mr. Court: He is a highly trained man and they cannot go beyond him.

The MINISTER FOR LABOUR: The decision of the conciliation commissioner could be appealed against. The person next in line to the commissioner could be his deputy. Does the hon. member mean to say that such an officer could not act for the commissioner if the commissioner happened to be absent or he was on leave and an investigation was required at Kalgoolie or Albany, for instance? If this provision were deleted it might curtail the activities of the department in such instances where the commissioner was already engaged on an inquiry and wished to delegate his powers to the next officer in charge. The commissioner would not delegate his powers to the office boy.

Earlier in the evening members of the Opposition kept asking how much the administration of this department would cost. I replied that the commissioner would be a highly qualified man and his officers would be highly qualified also. Therefore, what would be wrong with the commissioner delegating his powers to a deputy? The clause is quite sound and, despite what the member for Stirling has said, a similar

provision was used in 1948 and many important inquiries were conducted from that year until 1953.

Mr. BOVELL: The Minister has tried to explain the clause, but I am quite confident that paragraph (b) of Clause 12 covers the position entirely. It gives the Governor power to appoint an acting commissioner. No matter where the commissioner may be, he will still be the commissioner and his staff will conduct the activities of the department. If the commissioner has to leave the State the Governor will appoint an acting commissioner with necessary powers.

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

Ayes	....	....	....	22
Noes	....	....	....	15
Majority for				7

Ayes.

Mr. Andrew	Mr. Marshall
Mr. Brady	Mr. Norton
Mr. Evans	Mr. Nulsen
Mr. Gaffy	Mr. O'Brien
Mr. Graham	Mr. Potter
Mr. Hall	Mr. Rhatigan
Mr. Hawke	Mr. Rodoreda
Mr. W. Hegney	Mr. Sewell
Mr. Hoar	Mr. Sleeman
Mr. Jamieson	Mr. Tonkin
Mr. Johnson	Mr. May

(Teller.)

Noes.

Mr. Bovell	Sir Ross McLarty
Mr. Brand	Mr. Nalder
Mr. Cornell	Mr. Owen
Mr. Court	Mr. Roberts
Mr. Crommelln	Mr. Watts
Mr. Grayden	Mr. Wild
Mr. Mann	Mr. I. Manning
Mr. W. Manning	

(Teller.)

Pairs.

Ayes.	Noes.
Mr. Kelly	Mr. Hearman
Mr. Toms	Mr. Oldfield
Mr. Lawrence	Mr. Hutchinson
Mr. Heal	Mr. Ackland
Mr. Lapham	Mr. Thorn

Clause thus passed.

Clause 15—Secrecy:

Hon. A. F. WATTS: I move an amendment—

That subparagraph (i) of paragraph (d), line 31, page 7, to line 6, page 8, be struck out.

The MINISTER FOR LABOUR: I am not too sure as to what the member for Stirling means by his amendment. As far as I can see, the Attorney General may require certain papers in connection with prosecutions and surely it will not be suggested that the commissioner is not entitled to place those papers in the hands of the Attorney General!

Mr. Court: I think the Minister is confusing this with the Act. I think the papers there refer to an offence against any law outside the Act.

Hon. A. F. WATTS: It would appear that the Minister and I are at cross-purposes and I will explain to him what I feel the

position is. The paragraph at the bottom of page 7 of the Bill refers to offences against any law, not this law, but any law. In consequence, the paragraph at the top of page 8 of the Bill appeared to me to have reference to producing to the Attorney General and the Minister evidence of offences against any law which had come to the commissioner's notice, and I felt they must both go out. I have no objection to the Attorney General having information as to offences against this Act because I suggest further that prosecutions should not commence without his consent. I would, therefore, ask permission to withdraw my amendment.

Amendment, by leave, withdrawn.

Hon. A. F. WATTS: I move an amendment—

That the following words in lines 33 to 41, page 7, be struck out—

(I) from communicating to the Attorney General and the Minister any information which comes to his knowledge in consequence of his official position and which makes it appear that any person has committed, or is suspected of having committed, or is about to commit, an offence against any law;

Amendment put and passed.

The MINISTER FOR LABOUR: I would now like to refer members to the provision contained at the top of page 8 of the Bill. I move an amendment—

That the word "such" in line 4, page 8, be struck out, and that after the word "offence" in line 4, page 8, the words "under this Act" be inserted.

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

Clauses 16 to 18—Agreed to.

Clause 19—Powers of investigation and inquiry;

Mr. COURT: I invite the attention of members to the powers of investigation and inquiry that are to be given to the commissioner. I know this point has been touched on during both the second reading and the Committee stages. This is not an attempt to hold up the progress of the Bill; it is the duty of the Opposition to say that the commissioner has been given far too much undefined power and he is to be placed in the extraordinary position of having to investigate and to inquire, yet such an inquiry is not one within the ordinary meaning of the word.

It is a power which is deemed to be more than a judicial power because the commissioner sets out his own terms of reference, hears the evidence and decides the charge. This is completely foreign to what we understand to be the method under which any trader should be charged

or tried. For this reason we oppose this clause. We have picked out this clause to make a protest, although there are others in the Bill dealing with the powers of investigation and inquiry. I shall not go into detail as to why we object to each of the clauses. However, it will suffice to register our protest against this clause.

Clause put and passed.

Clause 20—Power to obtain information:

Mr. W. A. MANNING: I move an amendment—

That the following be inserted to stand as Subclause (6):—

If any person is in doubt as to whether any contract or agreement to which he is or proposes to be a party might render him liable to be charged with unfair trading methods or unfair methods of trade competition he may deliver to the commissioner a true copy of such contract or agreement or proposed contract or agreement and if the commissioner having regard to the need for production and distribution of the goods concerned by the most economic means and the requirements for the establishment of new industries and the successful development of technical improvements and the establishment of markets is of the opinion that such contract or agreement or proposed contract or agreement is not detrimental to the public interest he may certify in writing accordingly and thereupon no person a party to such contract or agreement and complying with the terms thereof shall be deemed to be guilty of unfair trading methods or unfair methods of trade competition.

This amendment needs some explanation. It is conceivable that a businessman will operate under a proposed agreement, but before entering into it he will need to know whether that agreement meets with the consent of the commissioner. Provision is made for a certificate in writing to be granted by the commissioner so that a trader will not have to wait until the commissioner has expressed his approval of the agreement or decides to conduct an inquiry. Some method should be available to enable a trader to determine exactly where he stood and this sub-clause would provide that means.

The MINISTER FOR LABOUR: I have circularised some amendments on a roneoed sheet to members, and the second paragraph therein will cover any exigency contemplated by the amendment before the Chair. If my amendment is accepted by the committee it will obviate the necessity to include the hon. member's amendment. It says—

(1) In this section "proposal" means a written proposal relating to profits proposed to be taken, or method of

trading proposed to be used, by the person or association of persons making the proposal.

(2) Where any person, or association of persons, submits a proposal to the commissioner, the commissioner shall consider the proposal and, if of the opinion that the proposal would not, if carried out, be contrary to public interest, approve the proposal, either as made or with such alteration as the commissioner, having regard to the public interest, approves or directs, and is hereby authorised to approve or direct from time to time.

(3) Where the person, or the association of persons, to whom approval of a proposal is granted, carries out the proposal as so approved, subject to such alterations, if any, as the commissioner from time to time so approves or directs, such carrying out of the proposal shall be deemed not to be unfair trading.

(4) Notwithstanding that the commissioner has approved a proposal under this section, the commissioner may, if of the opinion that the carrying out of the proposal is not in the public interest, whether because of a change in related circumstances since the granting of the approval or otherwise, cancel the approval by service on the person, or association of persons, to whom the approval was granted, of notice cancelling the approval on and from such day after service of the notice as is specified in the notice, and on and from that day the provisions of Subsection (3) of this section shall cease to apply.

(5) This section does not affect the exercise, during the operation of any approval granted under this section, of any power of investigation or inquiry conferred by this Act on the commissioner or an authorised officer.

I do not know the view of the member for Narrogin but I think this is more comprehensive and deals with the position more effectively.

Mr. W. A. MANNING: I must admit that the new proposal outlined by the Minister goes somewhat close to the proposal which I have submitted. However, it is not quite the same thing and I feel I should leave it to the Committee to decide whether the proposal I have put forward should be accepted or rejected. My amendment in some respects sets out the position more definitely and submits it quite briefly. It clears up the position regarding an existing agreement or proposed agreement which is not so clear in the amendment suggested by the Minister. Therefore, I feel my amendment should stand for the decision of the Committee because it has quite a number of merits.

Hon. A. F. WATTS: I am very strongly in favour of the proposal put forward by the member for Narrogin as compared with the proposal suggested by the Minister. The proposal of the member for Narrogin does everything essential in this regard, has been drawn with considerable clarity and it is quite impossible to misunderstand or misapprehend what is intended. It provides that if any person is in doubt as to any contract or agreement already entered into or proposed to be entered into, as to whether it comprises unfair trading practice or unfair method of trading competition, he may refer it to the commissioner and if the commissioner endorses it and provided the applicant complies with it he has in those circumstances not trespassed against the provisions of the Act.

That is a summary of what the member for Narrogin proposes and I think it is drawn up with considerable clarity, leaves nobody in any doubt as to what is intended and there is no possibility of the man getting away with it if he does not comply with the agreement, and it gives the commissioner full authority to approve or otherwise of a proposal which is an existing one or one proposed to be entered into.

The Minister for Health: The commissioner can approve or reject.

Hon. A. F. WATTS: Yes. The Minister's amendment is extremely clumsy. It gives the privilege with one hand and proceeds to take it away partially with the other. I do not like it and support the member for Narrogin.

Mr. W. A. MANNING: Having a closer look at these amendments, there is one important factor contained in the amendment I have submitted. It refers to an existing agreement which may be endorsed by the commissioner. There is no provision for that in the Minister's amendment and it is important. If there is an existing agreement, there should be some way in which the parties to that agreement can go to the commissioner and say, "What do you think of this. Does it meet with your approval?" This is important and part of the amendment I have submitted, and I suggest to the Minister that it is worthy of acceptance.

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

Clause 21—Power to enter premises and inspect documents:

Hon. A. F. WATTS: I move an amendment—

That the words "without any warrant other than this section, but on production of his appointment as such" in lines 14 to 16, page 10, be struck out and the words "on obtaining the issue of a warrant for the purpose", inserted in lieu.

This is the clause which enables entry without warrant and by force, if necessary, to search and inspect premises, etc. I do not propose to labour this aspect of the matter because it was fully dealt with so far as I am concerned on the second reading of this Bill.

The MINISTER FOR LABOUR: I propose to accept the amendment of the member for Stirling but it will be necessary to insert in the Act certain machinery clauses to arrange for the issue of the warrant. If the amendment is accepted as proposed and the words which it is proposed to include are inserted, would the commissioner be able to get the warrant unless there was provision in the Act for its issuance? That is the position so far as I have been advised.

The procedure indicated in the clause was in operation for many years. The present Opposition introduced it eight years ago and there was no warrant then. If it suits the Leader of the Country Party, we will undertake, having regard to his amendment, to have the requisite machinery clause put in in another place for the purpose of enabling the warrant to be issued.

Hon. A. F. WATTS: I would not be averse to provisions being incorporated in the Bill to ensure that the machinery would be available to the commissioner, in proper circumstances, to obtain the warrant. But I know of no clause at the moment, and unless the Minister has one we will have to leave it as he suggests.

Mr. JOHNSON: Possibly the whole clause could be replaced by the provision in the South Australian Act which has operated without any great difficulty for eight years. Section 9 of that Act provides—

- (1) For purposes of this Act an authorised officer may enter upon, inspect, and search any premises and inspect any documents, books and papers, and may inspect and take samples of any stocks of declared goods or of any other goods.
- (2) Before entering any premises pursuant to this section, the authorised person shall display to the person, if any, affording him entry a written document signed by the commissioner and certifying that that person is an authorised person.

That is somewhat different in construction from Clause 21, but it covers much the same area and it has the effect of the commissioner giving to his authorised officer something that is, in effect, a warrant although it is not a warrant. This provision in the South Australian Act has the support of parliamentary representatives who are not members of this party.

Mr. COURT: I do not quite follow whether the member for Stirling has agreed to allow this matter to await attention in another place.

Hon. A. F. Watts. These words are coming out tonight.

Mr. COURT: We are most anxious that we should end this right to enter and search without a warrant.

Amendment put and passed.

Hon. A. F. WATTS: I move an amendment—

That after the word "there" in line 20, page 10, the following proviso be added:—

Provided that any such entry shall only be made during such hours as the premises may lawfully be open for business.

I think there is no need to dilate on the reasons for putting in this amendment. The hours of business are severely restricted by legislation and they should be complied with by all parties.

Amendment put and passed.

Hon. A. F. WATTS: I move an amendment—

That Subclause (2) be struck out and the following inserted in lieu:—

(2) The commissioner, or an authorised officer, may make copies or abstracts of, but shall not remove from the premises wherein the same are kept, any documents, books and papers produced to, or inspected by, him in pursuance of this section, or of any entries therein, and in the absence of proof to the contrary any copy certified as correct by the commissioner shall be received in all courts as evidence of and as of equal validity as, the original.

The present provision amounts to the fact that the commissioner seizes the books and takes them away, and a little later he makes copies which he gives to the owner, but does not return the books. I do not see how the business man is going to carry on his operations in these circumstances because, unless the books are of the loose-leaf variety, which not all persons have, he would have to part company with not only those accounts that the commissioner wanted, but all the others as well.

Not wishing to be unduly obstructive, I propose that we should turn it around the other way. My amendment means that the commissioner will make a copy and will be allowed to use it, with his certificate, unless there is evidence that he has made a mistake in getting his particulars. This is a fair system and it gives the commissioner sufficient powers to get the information and to present it to the court, and it does not have the effect of upending the whole of the trader's establishment.

The MINISTER FOR LABOUR: I hope the Committee will not agree to the amendment as it would reverse what is proposed in the Bill. The measure introduced by the ex-member for Mt. Lawley when the Commonwealth Government relinquished price control, contained this very clause. I am informed that if the amendment were agreed to, it would be inconvenient for the commissioner or his deputy to take copies of vouchers, documents, accounts and so on. If books were taken away, they would be held by the commissioner for a few days only and returned after copies had been taken. The ex-Commissioner for Prices told me recently that this system worked well. A person's books would not be deliberately held for an indefinite period, but would be returned as soon as possible. I understand that there were very few complaints in that regard.

Mr. COURT: I hope the Minister will not persist in opposing the amendment. There were many cases of grave disservice to people whose books were taken from them. Conditions are now vastly different from those during and immediately following the war, and the measure referred to has been off the statute book for years. I would invite the Minister's attention to the legislation in the United Kingdom where, rather than submit a trader to unnecessary convenience, officials enter the premises, make copies and allow him to carry on normal trading. I hope the Committee will agree to the amendment.

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

Ayes	....	....	....	....	15
Noes	....	....	....	....	22
Majority against					7

Ayes.

Mr. Bovell	Sir Ross McLarty
Mr. Brand	Mr. Nelder
Mr. Cornell	Mr. Owen
Mr. Court	Mr. Roberts
Mr. Crommelin	Mr. Watts
Mr. Grayden	Mr. Wild
Mr. Mann	Mr. I. Manning
Mr. W. Manning	(Teller.)

Noes.

Mr. Andrew	Mr. Marshall
Mr. Brady	Mr. Norton
Mr. Evans	Mr. Nuisen
Mr. Gaffy	Mr. O'Brien
Mr. Graham	Mr. Potter
Mr. Hall	Mr. Rhatigan
Mr. Hawke	Mr. Rodoreda
Mr. W. Hegney	Mr. Sewell
Mr. Hoar	Mr. Sleeman
Mr. Jamieson	Mr. Tonkin
Mr. Johnson	Mr. May
	(Teller.)

Pairs.

Ayes.	Noes.
Mr. Hearman	Mr. Kelly
Mr. Oldfield	Mr. Toms
Mr. Hutchinson	Mr. Lawrence
Mr. Ackland	Mr. Heal
Mr. Thorn	Mr. Lapham

Amendment thus negatived.

Clause, as previously amended, agreed to.

Clause 22—Production of balance sheets and other accounts and statements:

Hon. A. F. WATTS: I move an amendment—

That all words after the word "notice" in line 9, page 11, down to and including the word "thereof" in line 12, be struck out and the words "and shall furnish the commissioner with copies of those balance sheets, accounts, statements and documents, or such of them as he may require," inserted in lieu.

This is when a trader has received a notice from the commissioner in writing to produce to the commissioner, or to an authorised officer, his balance sheets, manufacturing, trading, profit and loss accounts, etc., which are specified in the notice. Again, it provides that having been asked to produce them, he must leave them with the commissioner. I hope my amendment will be a better proposition and will be acceptable to the Committee because it will require him to furnish only copies of what is required.

The MINISTER FOR LABOUR: Although there may be a weakness in this and it could be of disadvantage to the commissioner, after consideration, it has been decided to agree to the amendment.

Amendment put and passed.

Hon. A. F. WATTS: I move an amendment—

That the words "and leave with" in line 19, page 11, be struck out.

This is a consequential amendment.

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

Clause 23—Obstruction:

Hon. A. F. WATTS: I move an amendment—

That after the word "not," line 29, page 11, the words "on production to him of the necessary warrant" be inserted.

This, too, is a consequential amendment.

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

Clauses 24 to 28—agreed to.

Clause 29—Exercise of powers of investigation:

Mr. COURT: I rise to oppose this clause. Had the previous amendment submitted by the member for Katanning been agreed to, the member for Stirling would have been moving for the insertion of an additional subclause to this clause which would have had the effect of at least staying the commissioner's hand for a while in connection with this matter. Any possibility

of restraint on the commissioner, whilst he has a second look at the matter, has been removed by the action of the Government in refusing to accept the amendment in regard to an advisory council. Therefore, we must oppose this clause because we feel that the powers are far too sweeping. This is consistent with the attitude we have adopted since the Bill was introduced.

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

Ayes	....	....	....	22
Noes	....	....	....	15
Majority for				7
				—

Ayes.

Mr. Andrew	Mr. Marshall
Mr. Brady	Mr. Norton
Mr. Evans	Mr. Nulsen
Mr. Gaffy	Mr. O'Brien
Mr. Graham	Mr. Potter
Mr. Hall	Mr. Rhatigan
Mr. Hawke	Mr. Rodoreda
Mr. W. Hegney	Mr. Sewell
Mr. Hoar	Mr. Sleeman
Mr. Jamieson	Mr. Tonkin
Mr. Johnson	Mr. May

(Teller.)

Noes.

Mr. Bovell	Sir Ross McLarty
Mr. Brand	Mr. Nalder
Mr. Cornell	Mr. Owen
Mr. Court	Mr. Roberts
Mr. Crommellin	Mr. Watts
Mr. Grayden	Mr. Wild
Mr. Mann	Mr. I. Manning
Mr. W. Manning	

(Teller.)

Pairs.

Ayes.	Noes.
Mr. Kelly	Mr. Hearman
Mr. Toms	Mr. Oldfield
Mr. Lawrence	Mr. Hutchinson
Mr. Heal	Mr. Ackland
Mr. Lapham	Mr. Thorn

Clause thus passed.

Clause 30—Exercise of power of inquiry:

Hon. A. F. WATTS: I move an amendment—

That paragraph (b), lines 36 to 38, page 15, be struck out.

This does not deal with a charge concerning an offence against the Act. If it were so, it would probably be open to the public without any qualification. It is an inquiry into whether action shall be taken on an offence against the Act. At this stage I do not think there is any need to admit any member of the public. Publication of the offence is made in the "Government Gazette" and the commissioner is in the same position as any other complainant whose case is heard in public. Whether the amendment is agreed to or not, I propose to provide that the commissioner shall permit the person charged with unfair trading to have during the inquiry the assistance of counsel or a solicitor, because it seems to me that it is only reasonable that he should have some type of advocate.

The PREMIER: To permit me to move an amendment at the end of line 5, page 15, I ask the member for Stirling to withdraw his amendment for the time being.

Hon. A. F. WATTS: I ask leave to withdraw the amendment.

Amendment, by leave, withdrawn.

The PREMIER: I move an amendment—

That after the word "so" in line 5, page 15, the word "shall" be inserted.

This word was left out in the draft and it is necessary to insert it otherwise the clause does not make sense.

Amendment put and passed.

Hon. A. F. WATTS: For the reasons I have already given, I move an amendment—

That paragraph (b), lines 36 to 38, page 15, be struck out.

The MINISTER FOR LABOUR: I have no objection to the amendment. I understand the member for Stirling desires to insert another paragraph in its place.

Amendment put and passed.

Hon. A. F. WATTS: I move an amendment—

That the following be inserted to stand as paragraph (b):—

Shall permit the person charged with unfair trading to have the assistance during the inquiry of counsel or a solicitor.

If somebody can suggest a better type of advocate, I will be quite happy, but I think the person concerned should have someone to assist him.

The MINISTER FOR LABOUR: I move—

That the amendment be amended by striking out the word "shall" in the first line and inserting the word "may" in lieu.

If the case were clear-cut and there was no reason to engage counsel, the commissioner could use his discretion. On the other hand, if he considers that he should have counsel or an agent to act on his behalf, permission could be given. I do not think that representation would be necessary in all cases and the discretion could be left with the commissioner.

Mr. COURT: The suggestion of the Minister is a most unrealistic one. It is all very well to say that the commissioner might rule that the case was of no consequence and therefore counsel was not needed. However, his view might not coincide with the views of the Minister, myself or any other party at that time.

Therefore, the decision should be left to the discretion of the trader because if the Minister will read Subclause (2) of this clause he will appreciate that under paragraph (c) there is an onus of proof thrown on the trader which makes it all the more important that he should have legal advice should he so desire.

We will be discussing this clause for other reasons as well, not the least of which is with reference to the last two lines of the clause which say that the commissioner shall make such decision as he thinks just. We then turn to Clause 39 and find there is no right of appeal. I think it is most important that it should not be left at the discretion of the commissioner as to whether the person concerned has legal advice or not.

Progress reported.

BILL—MUNICIPALITY OF FREMANTLE ACT AMENDMENT.

Returned from the Council without amendment.

House adjourned at 12.33 a.m.

Legislative Council

Wednesday, 3rd October, 1956.

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

QUESTIONS.

KANGAROOS.

Destruction and Royalty Paid.

Hon. L. A. LOGAN asked the Chief Secretary:

(1) In what areas are professional hunters shooting grey kangaroos for the pet food trade?

(2) On what number of skins has royalty been paid in each of the road board areas concerned for—

(a) 1953;

(b) 1954;

(c) 1955?

The CHIEF SECRETARY replied:

(1) Persons licensed under the Fauna Protection Act to take kangaroos for gain or reward may take and kill grey kangaroos outside the boundary of the grey kangaroo reserve and in road board districts where protection is temporarily lifted. The professional hunter is required under his licence to furnish a return of the kangaroos taken during the currency of his licence, without defining the actual area where the kangaroos were taken.

(2) Royalty is payable only on skins of grey kangaroos shot in the South-West Land Division, except where declared vermin. Returns of royalty paid are available only for the State as a whole.

KING EDWARD MEMORIAL HOSPITAL.

Appointment of Administrator.

Hon. J. G. HISLOP asked the Chief Secretary:

(1) Is it true that the Minister has issued an order to the board of management of the King Edward Memorial Hospital, directing them to revoke the appointment of an overseas applicant to the post of administrator of that hospital?

(2) If this is so, what were the grounds for the direction?

The CHIEF SECRETARY replied:

(1) The Minister has asked the board of management to revoke the offer of appointment of an overseas applicant.

(2) It is considered that there are local applicants suitable for the position.

DRIVE-IN THEATRE.

Establishment at Scarborough.

Hon. A. R. JONES (for Hon. J. McI. Thomson) asked the Chief Secretary:

(1) Did the Drive-in Theatre Investigation Committee recommend that the proposed drive-in theatre at the corner of Liege-st. and Scarborough-rd., for Metro-Goldwyn Mayer be not approved?

(2) If so, when was the recommendation made?