

prejudiced, but he has to admit now that he has changed his views completely as a result of his experience of the actual work done in that district. I do not think I need detain the House much longer, but I have mentioned some of the activities of the department on account of their importance, and also so that members may know the problems we are called upon to deal with. The agriculturist has to deal not only with production problems, but problems associated with stock diseases, plant diseases, and stock and insect pests, in addition to low prices for his products. There seems to be an aggregation of difficulties as far as the agriculturist is concerned. Naturally, in times such as the present he looks first to his financier, but he has also to look to the agricultural adviser. I believe the work of the department is increasing in importance and that as the difficulties increase, instead of there being less need for the technical adviser, there is greater need. I believe, too, that a better understanding exists between the agriculturist and the expert. There is a disposition now to take advantage of such aid as the scientist can give.

Progress reported.

*House adjourned at 10.17 p.m.*

## Legislative Council,

*Wednesday, 8th November, 1933.*

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

## QUESTION—TROLLEY BUSES, COSTS AND REVENUE.

Hon. H. SEDDON asked the Chief Secretary: 1, What was the cost per mile of equipping the route now served by the trolley 'buses? 2, What has been the running cost per mile since the inception of the service? 3, What has been the total revenue during the same replied?

The CHIEF SECRETARY replied: 1, £2,130 per mile for double overhead line. 2, Operating costs, 15d. per mile. 3, £595.

## BILL—ENTERTAINMENTS TAX ACT AMENDMENT.

Read a third time and *passed*.

## BILL—METROPOLITAN WHOLE MILK ACT AMENDMENT.

Further report of Committee adopted.

## BILL — GERALDTON SAILORS AND SOLDIERS' MEMORIAL INSTITUTE LANDS VESTING.

*Second Reading.*

**THE CHIEF SECRETARY** (Hon. J. M. Drew—Central) [4.37] in moving the second reading said: The purpose of the Bill is to vest certain lands in the trustees of the Geraldton Sailors and Soldiers' Memorial Institute. During the later years of the Great War, an incorporated body known as the Geraldton Sailors and Soldiers' Memorial Institute was formed in Geraldton. A considerable sum of money was raised and a large building was purchased for use as a soldiers' institute. A land-owner at Geraldton donated sixteen blocks of land to the institute as a free gift, with the object of enabling money to be raised to assist in paying off the debt of the building that had been purchased. An Act of Parliament was subsequently passed dissolving the incorporated body and vesting the various assets in the trustees of the Geraldton Sailors and Soldiers' Memorial Institute. The land in question was not included with the other assets, and consequently, in a strictly legal sense, it became the property of the Crown, as the incorporated body had been dissolved, and the land was left without an owner. The trustees of the present institute are desir-

cus of erecting a new and more suitable building, and also an obelisk on a block of land that has been granted to the Returned Soldiers' League in Geraldton. They now desire to sell the 16 blocks I have mentioned, together with other assets in their possession, including the old building, in order to utilise the proceeds in erecting the projected building. Before the trustees can do anything with the land, it is necessary to rectify the omission that was made when the trust was constituted by Act of Parliament four or five years ago. For that reason, it was necessary to bring down this Bill with the object of vesting the 16 blocks in the trustees. The Bill will not affect the rights of any person and therefore is not contentious. The passing of the Bill will assist the trustees of the Geraldton Sailors and Soldiers' Memorial Institute to proceed with the building of more suitable headquarters, and a memorial more worthy of the residents of the district who answered the call to duty. When I commenced the consideration of this Bill, the thought arose in my mind that it might be necessary to make some investigations, as the Bill proposes to transfer the land unencumbered to the trustees of the memorial institute. I wanted to satisfy myself that the property was unencumbered, and I sent my clerk to make an investigation at the Titles Office this morning. As a result he advised me that he had made a search of the title to the land specified in the Bill, and had found that the blocks were unencumbered and no caveats had been registered against them. He further advised me that all the blocks were included in the one title.

Hon. J. Nicholson: In whose name?

The CHIEF SECRETARY: In the name of the old institute. This matter was overlooked when the legislation was before Parliament in 1929. I move—

That the Bill be now read a second time.

HON. J. CORNELL (South) [4.43]: I second the motion. I have compared the Bill with the parent Act, which was passed more or less hurriedly and perhaps without sufficient investigation. Apparently it has been discovered that the most essential phase was overlooked. While all the necessary machinery was provided and the trustees were armed with all the required authority, the Act did not vest the land in the

trustees who comprise the mayor of Geraldton for the time being, two ratepayers and two representatives of the R.S.L.

The Chief Secretary: A small portion of the assets only was vested in the trustees.

Hon. J. CORNELL: The Bill is therefore necessary to consummate what we intended to do in 1929.

Question put and passed.

Bill read a second time.

## **BILL—LOTTERIES (CONTROL) ACT AMENDMENT.**

*Second Reading.*

Debate resumed from the previous day.

HON. E. H. HARRIS (North-East) [4.44]: Yesterday afternoon we debated the provisions of a Bill which had for its object the compulsory taxing of people who bought tickets for various forms of amusement. To-day we have before us a Bill that seeks voluntarily to impose taxation on anyone who decides to indulge in the purchase of a ticket in a lottery. The importance of the principle embodied in the Bill is not limited to lotteries, but may have far-reaching effects. It appears to me to be a clumsy attempt to amend or evade the provisions of the Constitution Act Amendment Act. This State was at one time a Crown colony and by Royal assent it was given a Constitution which was proclaimed on the 18th May, 1900.

Hon. V. Hamersley: The year was 1890, was it not?

Hon. E. H. HARRIS: I am quoting from the Constitution Act contained in the volume of the Standing Orders. The Constitution gave the State self-governing powers, with two branches of the Legislature, namely the Legislative Council and the Legislative Assembly. Within the ambit of the Constitution the powers of the Parliament are limited. If we consider the legislation we have passed this session, we may recall the Municipal Corporations Act Amendment Bill and the Road Districts Act Amendment Bill, as well as other measures, by which we as a Parliament, within the ambit of our powers, delegated certain powers and practically made of other bodies Parliaments on a lesser scale. Should any of those bodies exceed the powers conferred

by Parliament, it is subject to the judiciary. From time to time when someone has raised objection, steps have been taken to test the validity of certain actions. About 20 years ago I became entangled in a quarrel with the Trades Hall concerning a constitution. Certain things had happened in an organisation, and I found myself amongst the minority. There was a hue and cry after my industrial scalp, and the head body determined to make application to the court for de-registration, which application I had to answer. I answered to the effect that the constitution of the organisation had been ignored. The case came before the late Mr. Justice Burnside, and the representative of the industrial union submitted that the organisation had been carrying on in a certain manner during the preceding 13 or 14 years. To that the President of the court replied, "I accept your assurance on that. You may ignore your rules and constitution and do it with impunity until someone objects. An objection having been raised, I am here to determine it. Mr. Harris has questioned your right and I am here to determine whether he can substantiate the claim he has made that you have ignored your constitution." I recall that case because we are dealing with the Constitution given to the State, and I wish to impress upon members that we have to adhere to the Constitution and not ignore it if we wish to avoid trouble. The votes cast on this Bill will determine whether or not we, as custodians of the Constitution given us by Great Britain, shall ignore it when it is convenient or declare it a scrap of paper. That is the position as I see it. Clause 3 (j) of the Bill does not indirectly attempt to amend the Constitution; it attempts to defeat the Constitution. Therefore members have to ask themselves whether the Constitution is paramount, or whether it is subject to any Bills that might be passed by the Legislature. Before the debate closes, illustrations may be given of attempts made in that direction. I submit that the votes of members should be based on that consideration. The Minister, in introducing the Bill here—the same thing applied in another place—pointed out that the Lotteries Commission would not be interfered with to any great extent. I submit that if the Bill be passed, the commission henceforth will be merely a rubber stamp for the Minister. If

the Minister is given the power set forth in the Bill—

Hon. A. Thomson: I hope he will not be.

Hon. E. H. HARRIS: I take the same view. If he gets the power, the lotteries will be under political control.

Hon. C. F. Baxter: Yes, State lotteries.

Hon. E. H. HARRIS: The Honorary Minister said that doubt had arisen as to the legality of the appointment of a member of the commission, and that any doubt of the legality should be removed. The Minister has therefore submitted a Bill that he has been advised will cure the illegality. The question arises whether the amendment contained in Clause 3 (j) is in conformity with the title of the Bill. I do not think it is. However, I shall not press the point beyond making that incidental reference to it. One course the member affected could adopt would be to resign his seat on the commission. I have a case in point which I quote from "Hansard" of the 21st February, 1918, page 522, as follows:—

#### Electoral—Metropolitan Province.

The PRESIDENT: I have received the following letter from Mr. Boan:—

"I: is with extreme regret that I feel called upon to tender my resignation as a member of the Legislative Council. I am taking this course because two days ago my attention was drawn to the fact that we have had for several years a branch of the State Savings Bank on the business premises of my firm, and that this might possibly be held to be a contravention of Sections 32 and 34 of the Constitution Act Amendment Act, 1899. Under the circumstances, I hereby tender my resignation as a member of the Legislative Council, and I may add that I have returned to the Treasurer to-day the whole of the remuneration I have received during the period for which I have been a member."

That is the Act which we are seeking to override to validate a similar illegality. Thus a member of the Legislative Council, when he discovered that he would render himself subject to the Constitution, promptly tendered his resignation. Since the Bill has been received in this House, it has naturally given rise to discussion amongst members, and reference has been made to what has been termed a similar position that arose in 1902. I understand that Captain Laurie was connected with the Fremantle Harbour Trust and was a member of the Legislative Council, and the question arose whether he could occupy the two positions. There is a section

in the Fremantle Harbour Trust Act stating—

The office of Commissioner and the office of any person employed or retained by the Commissioners otherwise than at a salary—

I wish to emphasise those words “otherwise than at a salary”—

—shall not be deemed to be an office of profit within the meaning of the Constitution Act, 1889, or any amendment thereof.

That has been discussed as the case of a member of this House occupying another position and receiving remuneration, but I wish to make it clear that it is not so.

Hon. J. Nicholson: Did not he receive some remuneration or small fee?

Hon. E. H. HARRIS: I do not know. I am quoting the words of the statute and am drawing special attention to the words “otherwise than at a salary.” Whether Captain Laurie received remuneration or some fee, I am not prepared to say. The Minister proposes, by legislation, to legalise what is undoubtedly an illegal act between the Crown and a member of the Legislature.

The Honorary Minister: That is not admitted.

Hon. E. H. HARRIS: I am submitting that it is correct. The object is to exempt a member of the Legislative Council from the provisions of the Constitution Act. Should we flout the Constitution, or sidestep it in that way? If we do, there is no limit to the activities of that kind in which we may indulge. We may pass many Bills having perhaps far greater effect than would the Bill before us. Let me refer to Section 38 of the Constitution Act which begins—

If any member of the Legislative Council or Legislative Assembly, after his election, ceases to be qualified or becomes disqualified as aforesaid—

Then follow the details setting forth that if he makes an assignment, becomes insolvent, becomes of unsound mind, takes oath of allegiance to a foreign country, fails to give his attendance in the Council for a certain period, or if he accepts any office of profit under the Crown, his seat shall thereupon become vacant.

Hon. A. Thomson: Where is the reference to an office of profit under the Crown?

Hon. E. H. HARRIS: In Subsection 6 of Section 38. If we achieve what is desired by passing this Bill we can pass another that will qualify every guest of His Majesty at present in Fremantle gaol, or even bank-

rupts, to become members of this House. Repeated attempts have been made to amend the Constitution of the Legislative Council, the object being to secure household franchise or adult franchise, and because the requisite majority was not available, this House could not pass the Bill. I wish to impress on members that if it is possible for us to pass the Bill that we are now considering, that it is an attempt undoubtedly to evade the Constitution, and in that case, would it not be possible to introduce the Bill that had for its object the liberalising of the franchise for the Legislative Council by, say, amending the Electoral Act instead of amending the Constitution Act. I ask members whether they would support such a Bill. I fancy some of them would not. One provides that an unqualified person shall not sit in Parliament, and the other would say that an unqualified person could record a vote. That is what it would mean. In my opinion one Bill, and one Bill only, that Parliament can pass effectively to save any member from being penalised by the strong arm of the law is a Bill to amend the Constitution, properly introduced, and passed by both Houses through its second and third reading stages with the requisite absolute majority. We are not sailing in uncharted seas; we have the beacon light before us—the Constitution—and it indicates the direction we should take. I submit that whether the Bill we are now discussing passes or not, a breach of the Constitution has been committed for which the prescribed penalty is not a fine, such as might be imposed in the police court, but political extinction. That penalty cannot be averted. Speaking as a layman, I feel quite sure on that point, and whatever sympathy one might have for a colleague, I assure the hon. member whose seat has been challenged, that he has my sympathy. All the same, I must vote against the second reading of the Bill.

Hon. J. Cornell: You will then vote out the lotteries altogether.

Hon. E. H. HARRIS: I endeavoured to do that once before, but I slipped. If the services of the legal fraternity are requisitioned to interpret this case, their first query must be, “from whence do you at Parliament derive your authority to legislate?” and the answer will be, “The Constitution.” Nothing else. The statute limits the actions of Parliament. In 1925 a Bill was intro-

duced to amend the Electoral Act, and in speaking I described that Bill as a clumsy attempt to amend or dodge the Constitution. These were my words—

Notwithstanding anything contained in Section 75 of the principal Act, if Clause 52 of this Bill is carried, it will then provide that notwithstanding anything contained in Section 8 of the Constitution Act Amendment Act, certain things may be done. It looks like a clumsy attempt to amend the Constitution. Certainly the Constitution Act is not to be amended by amending the Electoral Act, and perhaps the Leader of the House when replying, will indicate what is really meant by Clause 52.

The debate proceeded, and subsequently the Bill was taken into Committee. The late Mr. Lovekin took up the running, and you, Sir, on that occasion, occupied the chair as Chairman of Committees. Mr. Lovekin said—

I would like you, Sir, to inform me whether the Bill comes to us with a certificate necessary under Standing Order 242, which reads as follows:—"If any Bill received from the Assembly be a Bill by which any change in the Constitution of the Council or Assembly is proposed to be made, the Council shall not proceed with such Bill unless the Clerk of the Assembly shall have certified on the Bill that its second and third readings have been passed with the concurrence of an absolute majority of the whole of the members of the Assembly."

Hon. J. Cornell: That part of the Constitution is not applicable to this amendment.

Hon. E. H. HARRIS: I submit this is a parallel case. Following that up, there was a long debate, a portion of which I may be permitted to quote. The Chief Secretary at that time happened to be Mr. Drew. The Chief Secretary said that the clause in the Bill, was an amendment of the Constitution Act, and should be certified as having been passed by a majority of members of the Legislative Assembly. Mr. Holmes interjected that the Bill was not before the Committee, and he added, "You cannot get behind the Constitution, and neither can the Government." Mr. Lovekin interjected, "If the clause is struck out we might not take notice of it." Mr. Stephenson remarked, "We must take notice of it." Then I offered this comment, "I should like to know whether in your ruling, Mr. Chairman, you propose to cover the points raised by Mr. Lovekin or only one particular point. In

reply you, Sir, as Chairman of Committees, said—

My ruling will cover all the points raised by Mr. Lovekin. The hon. member gave notice that he would raise this point of order, and I have had the advantage of being able to investigate the questions involved. Apart altogether from the clause referred to by the Minister—Clause 52—there are other clauses of the Bill that unquestionably are intended to change the Constitution of both Houses of Parliament. One of the clauses will allow of the alteration of the boundaries of a district by proclamation, and that to my mind, makes the Bill virtually a redistribution of seats Bill. Again, no certificate has been received of the Bill having passed its second and third readings in the Legislative Assembly, with the concurrence of an absolute majority of the whole of the members. Therefore, I have no alternative but to follow Standing Order 242.

I have already read to the Committee that standing order. You, Sir, went on to say—

I have therefore no hesitancy whatever in ruling that the Committee cannot proceed with the Bill. If the Committee raise no objection to my ruling I shall leave the Chair.

Then you, Sir, left the Chair, and the Bill lapsed. I submit that there was a connecting link. I might here ask whether the Bill we are now discussing was accompanied by a certificate that the second reading and third reading had been carried in another place by the constitutional majority. When I conclude my remarks I intend to ask you, Sir, for a ruling as to whether you consider the Bill we are now discussing is properly before the House. I submit that the instance we are discussing now is on all fours with that of 1925, the Electoral Act Amendment Bill, to which I have referred. Section 3 of the Lotteries Act in paragraph (c) provides that the Commission shall consist of four members who shall be appointed by the Minister. Then paragraph (e) sets out that the members of the commission so appointed shall hold office for one year, but at the expiration of that time shall be eligible for re-appointment. Paragraph (f) of the same section reads—

The Minister may sanction the payment of a fee to each of the members as remuneration for his services at the conclusion of each lottery conducted by the commission under this Act.

In my opinion that definitely proves that the position held by each of the members is an office of profit under the Crown. There are clauses in the Bill we are discussing relat-

ing to extending the operations for the distribution of money to unemployed persons or bodies, in these words, "Any body which has for its object the relief of unemployed persons in the State." I submit that if we are going to extend it in the words embodied in the Bill, there will be a big mushroom growth of bodies who will have for their object what is set out in the Bill. All registered unions will be interested in the clause. There are no fewer than 95 such unions and the union of unemployed men, which is not recognised by the Trades Hall, will bring the total to 96.

Hon. E. H. Gray: There is an organisation now, and it must be affiliated.

Hon. E. H. HARRIS: We will have that, if you like. Then there are all the benevolent societies in the State, and all the churches, and then all the mushroom growths that have sprung up in every centre. I will not stand for them. In conclusion I ask your ruling, Sir, as to whether you consider the Bill, which seeks to amend the Constitution, is in order.

#### *Point of Order.*

The President: A point of order has been raised as to whether the Bill is in order. Any member who wishes to speak to the point of order may do so, and later on he can speak to the Bill.

Hon. J. J. Holmes: I also have a point of order. I have a case I wish to quote. Perhaps I had better leave it till later. My point is that one of the clauses in the Bill does not conform to the title of the Bill.

The President: Perhaps the matter would be facilitated if Mr. Harris would temporarily withdraw his point of order and allow the discussion to proceed, after which I can hear his point and that referred to by Mr. Holmes, and by to-morrow I will look more fully into the matter. Members might then raise their points again.

Hon. E. H. Harris: With the consent of the House, I will temporarily withdraw my point of order.

#### *Debate Resumed.*

The PRESIDENT: Now Mr. Holmes can discuss the Bill, and as to whether or not it is in order.

HON. J. J. HOLMES (North) [5.17]: First of all I should like to congratulate Mr. Harris on the manner in which he has dealt with the subject; I do not think I should be saying too much if I remarked that he has impressed me as being one of the bulwarks of the Constitution.

Hon. E. H. Harris: This House is supposed to be a bulwark of the Constitution.

Hon. J. J. HOLMES: I have every sympathy with an hon. member who has been unknowingly misled, and before I sit down I will suggest a way out of the difficulty, appreciating as I do the good work that member, like certain other members, has done for charity. But the way out cannot be found through the amendment provided in the Bill. If we pass the Bill with that amendment, I do not think for one moment it will serve to over-ride the Constitution. The Bill contains three important proposed amendments, and I will deal with them as they appear in the Bill. The first is in Clause 2, and proposes to add to the definition of "charities" "any body which has for its object the relief of the unemployed."

We are not likely ever to hear of anything wider than that as a definition. The relief of unemployment is a social duty, and we have made due provision for it. We have borrowed money for that purpose from the Loan Council, and we have passed a special Act allocating a special sum to be devoted to the relief of unemployment. I repeat that the relief of unemployment is a social duty and not a charitable object. What we were aiming at through the commission was the relief of charity. I think we have made sufficient provision for the relief of unemployment, but we have not made sufficient provision for our sick and distressed. When the Hospitals Tax Bill was before the House I said that one of the first duties of any Government was to look after the indigent sick, and that that should be the first charge on the general revenue of the State. I have not altered my opinion. However, the Hospitals Tax Bill was passed, and so far as I can gather, the indigent sick have not fully participated in the money thus raised. In order to show that it was intended that those who paid the tax should have hospital treatment when necessary, if members will look at the provisions of that Act they will find that anybody resident in the State and earning income has to pay the tax. But one can reside outside the State and collect income

or salary, yet not pay the tax. This clearly shows that it was intended that those who paid should have the advantage of hospital treatment. Yet they have not had it. A maid in my own house subscribed every week. There came a time when she fell sick and had to go to the hospital, where she had to pay, just the same. That is where we fail in regard to the sick. This Bill provides that there shall be a further dip into the funds set aside for charity, in order to find work for the unemployed.

Hon. E. H. Gray: To find relief, not to find work.

Hon. J. J. HOLMES: I do not see any difference between work and relief. This demand to have the unemployed participating in the distribution of the moneys made available by the sweeps can have only one effect, namely to penalise the indigent sick to whose assistance the fund should be devoted. The hospital tax has been partially confiscated, and I suggest that if the Bill be passed a considerable part of the charities fund also will be confiscated in the same way. I need hardly say that will not meet with my approval. The unemployed have had assistance from general revenue, from the Loan Council, and from special taxation, and I do not think we should go any farther in that direction. The inclusion of relief of unemployed in the definition of "charities" sets up a very wide range. It might easily be contended that to provide funds for the election of members of Parliament pledged to the extravagant expenditure of money, would be relief of the unemployed. Let me go back to last session, when the parent Act was under discussion. Mr. Baxter, as Chief Secretary, was in charge of the Bill. He sat on Mr. Williams's left at the time, and this is what Mr. Williams said on the Bill:—

If our party is going to defeat the hon. member on my left, we must get some cash, even if we do get it by subscriptions and sweeps.

Mr. Williams then said that the sweeps had been stopped. Now, following on that, the scope of the Bill has been enlarged in order—to use Mr. Williams's own words—"that our party may get some cash." I cannot put any other construction on it. Then we come to Mr. Fraser, who was entirely opposed to the Bill; so much opposed to it that he moved that it be read that day six months. And Mr. Kitson, who as Honorary Minister introduced the Bill now before us, with four others supported

Mr. Fraser last session. He subsequently moved that the debate be adjourned, but it was the end of the session and so he was not successful. Now we have Mr. Kitson, as Honorary Minister, supporting the Bill before us. All I can read into the attitude of those two members last session is that the Bill at that time did not include provision for an unemployment fund, whereas the Bill now before us does provide for it. So we have had this change of front. Somebody suggested that Mr. Kitson had changed his seat and his ideas with it. It was intended that the parent measure should last for only one year, but the Bill provides for an extension of three years.

Hon. A. M. Clydesdale: A proper policy cannot be formulated in 12 months.

Hon. J. J. HOLMES: The Bill of last session would never have been passed had it contained that provision. Mr. Clydesdale, when speaking to the Bill of last session, said that too many sweeps would extract from the people money which they could not afford.

Hon. A. M. Clydesdale: And I say it again now.

Hon. J. J. HOLMES: He said that too many sweeps would extract more money from the people than they could afford.

Hon. A. M. Clydesdale: In Queensland and New South Wales there are only gambling machines.

Hon. J. J. HOLMES: If a person has political influence and numbers of persons are out of employment, one can see what might happen in the case of additional sweeps, and more money being extracted from the products of the public who cannot afford to spend it.

The Honorary Minister: The Act limits the number of lotteries.

Hon. J. J. HOLMES: Mr. Clydesdale also said that those in charge of charitable organisations were at their wits' ends to know how to provide funds. That in itself should have been sufficient to prevent any attempt to enlarge the scope of the Act.

Hon. A. M. Clydesdale: They are worse off now than they were then.

Hon. J. J. HOLMES: They would be worse off still if there was a further division of the money, and other organisations were added to the list. The next amendment is an important one. It deals with members of Parliament accepting an office of profit

under the Crown. Very rightly, the Constitution Act does not permit this. I would go out of my way to protect any member of either House from being penalised in a monetary way through his acceptance of an office he thought he was entitled to hold. I suppose this was done on the advice of the Crown Law Department, or upon that of legal members of another place, but it appears that members of Parliament did accept office under a misapprehension that they would not suffer monetary loss. It would be an equitable proposition to make provision that if a member of Parliament, who had accepted office under these conditions, was being penalised, he should not be the loser by the transaction. I would go farther and say that, if it was necessary, a Bill should be brought down to liquidate such liability, I would give it my support. When we come to amending the Constitution, which some of us hold dear, it opens up another question. I hope Mr. Clydesdale will understand my position. I realise what he has done for charity, and that unconsciously he has got himself into a false position. I am sent here to guard the Constitution; that must be my first duty. The suggestion I have made provides a way out. If there is a test case, the court will decide it. I should say the court would first look up the Constitution Act. If the passing of this amendment finalised the matter, there might be something to be said for it, but I do not think it will do so. Mr. Harris has already stressed that point. No subsidiary measure can override the Constitution. Unless the test case is gone on with, the matter will never be cleared up. If a member of Parliament has been placed in a false position, and is affected in a monetary way, the State should get him out of the difficulty, and it should then remain for him to take what action he thought fit thereafter. In order to show the value of this provision regarding offices of profit, I should like to go back for a number of years. I will revert to the days immediately after Federation, when the Leake Government were in power. They had not long been in office when my administration of the railways was challenged by the Leader of the Opposition, Mr. F. H. Piesse, and a vote of no confidence was carried against us. We went to the country. Mr. Piesse was subsequently sent for as the mem-

ber who had moved the motion of want of confidence. Through intriguing on the part of some of his followers, he could not form a Ministry. Mr. A. E. Morgans was then sent for, and formed a Government, which did not include Mr. Piesse. The Constitution provided that the six Ministers should go to the country, because they had accepted an office of profit under the Crown. They did so, and the country rebelled, with the result that only three Ministers were returned. When the Government met the House, and prayers had been said, the Leader of the Opposition, Mr. Leake, stood up and moved, "That the House do now adjourn." He divided the House, and that was the end of the Ministry which had lasted for only a few hours. We see the wisdom of that provision in the Constitution. A man cannot serve God and Mammon, and must decide which he will serve. A man cannot accept an office of profit which conflicts with his political duties or any other duties. Although I would be prepared to assist Mr. Clydesdale out of his difficulty from the monetary point of view, I think he has to decide the future for himself. The provision to which I have referred gives the electors an opportunity of declaring whether they approve or not of the action of the member concerned. No member should occupy a paid seat on a board. For my own part, I have adhered to that principle for the last 30 years. I have served on several Royal Commissions, as chairman and as an ordinary member, but I have never been on a Royal Commission that constituted an office of profit, or received any remuneration for my services. I have always stipulated that if I was to serve on a Royal Commission, it must be an honorary member. When a man gives his services to the country, he should be prepared to do anything he is capable of doing.

Hon. C. B. Williams: Did you get your expenses?

Hon. J. Nicholson: Expenses are not remuneration.

Hon. J. J. HOLMES: Members know that in the case of a Royal Commission which is sitting upstairs, it is not the country that pays when the members of the commission come downstairs, but the members themselves pay.

The Chief Secretary: You always accepted the position in an honorary capacity.



Hon. J. J. HOLMES: Yes. Under this Bill the appointments to the Lotteries Commission are made by the Government of the day. I am not singling out one Government from another, whether Labour, Country Party or Nationalist. I should say one was as bad as another in respect to these matters. They should not have power to offer appointments to members of Parliament. That may influence the members concerned to the extent that they may view a political question from a different standpoint. No Government should be in a position to appoint members to boards of this kind.

Hon. C. B. Williams: Do you object to ex-members of Parliament serving on such boards?

Hon. J. J. HOLMES: If they are ex-members they can do as they like, but I do think that while they are members they should comply with the Constitution.

Hon. J. Cornell: Is Mr. Williams looking ahead?

Hon. J. J. HOLMES: I am afraid I missed the point at the moment. I should think the work Mr. Williams does for his constituents would keep him here for years. These lotteries are growing in magnitude. I do not think anything in the vicinity of £100,000 a year should be at the disposal for distribution of any member of Parliament, no matter to what party he belongs. Suppose the money was held up until the eve of a general election? These funds are not to be used for political purposes, but a general distribution of these funds may be made by politicians at that time. We can see what effect this may have upon the business of the country. It is not cricket; it is politically wrong. There is another grave objection to the Bill: that is the attempt on the part of the Minister to control the distribution of the money. I do not think the House would ever agree to that, and the original Act would never have been passed if that had been predicted when the measure was introduced last year. I need not stress that point for members can see it as well as I. The Act specially prohibits the Minister from controlling the funds except in a minor degree. The Bill reverses that and practically makes the Minister a dictator of the fund. I come now to the last point I submit for your ruling. Standing Orders 173, 174, 175 and 177 clearly lay down that any

clause in a Bill must conform to the title of the Bill. The Bill we are discussing is a Bill for an Act to amend the Lotteries Act. Paragraph (j) of Clause 3 of the Bill seeks to amend Sections 37, 38 and 39 of the Constitution Act. Mr. Harris has already dealt with that point. The point I stress is that that provision does not conform to the title. We had before us yesterday a Bill to amend the Fire Brigades Act. Could I have asked to insert in that Bill a clause to amend the Lunacy Act, the Licensing Act, the Dog Act or the Electoral Act? Had I attempted to do so, I would have been ruled out of order at once, because such a clause would not conform to the title of the Bill. I draw your attention to a ruling given by the late Sir Henry Briggs when President of this Chamber. So far as I can ascertain, that ruling has never been altered. A Bill was passed in another place in 1912 for an Act for the construction, maintenance and working of Government tramways. Included in the Bill was a clause to amend the Railways Act. The point was raised by Mr. Moss, then a member of this Chamber. An endeavour was made in that Bill to amend the Railways Act, which provided that in case of dismissal the dismissed person had the right to appeal to the Commissioner—and in those days the Commissioner was also the Minister. That proposal was passed by another place, notwithstanding that there were nine railway men there. They, however, did not see the point. As I said, Mr. Moss raised the point in this Chamber. I am quoting from "Hansard" of the 28th November, 1912, page 3962:—

Bill—Government Tramways: *Second reading—Bill not in order*—Order of the Day read for the resumption, from the 21st November, of the adjourned debate on the second reading.

Hon. M. L. MOSS (West): I rise to a point of order in regard to the Bill. Subclause 3 of Clause 19 purports to amend Section 68 of the Government Railways Act, 1904. It is, therefore, a provision foreign to the Title of the Bill, and I think you will agree that it is a direct contravention of Standing Order 173.

Hon. J. Cornell: Now Standing Order 174.

Hon. J. J. HOLMES: The report continues—

I ask for your ruling, therefore, as to whether the Bill is in order.

The PRESIDENT: I would like hon. members to turn up their Standing Order 173.

The Colonial Secretary: Am I privileged to state my case?

The PRESIDENT: I have been asked for a ruling; if you disagree with my ruling you can put it to the House. In my opinion any hon. member is entitled at any time before the second reading of a Bill to call attention to what he may consider imperfections in the Title as not concerning the scope and purposes of the Bill. I understand the specific point to which he refers is this: the Bill is "A Bill for an Act for the Construction, Maintenance, and Working of Government Tramways." Subclause 3 of Clause 19 reads as follows:—

Section 68 of the Government Railways Act, 1904, is amended by adding a paragraph as follows:—The power to suspend, dismiss, fine, or reduce to a lower class or grade, any officer or servant of the department delegated to the Commissioner, may be sub-delegated by him to the head of any sub-department of the Department of Government Railways.

It will be seen that this subclause is a specific amendment of Section 68 of the Government Railways Act, 1904, and I am clearly of opinion that the subclause is foreign to the Title, as it specifically alters Section 68 of the Government Railways Act, 1904, not only as regards tramways, which are placed under the Commissioner of Railways by the Bill, but also goes far beyond, because it affects the Commissioner's position with regard to officers and servants of the whole of the Department of Government Railways. The Bill directly violates Standing Order 173 of the Legislative Council, which is as follows:—

The Title of a Bill shall coincide with the order of leave, and no clause shall be inserted in any such Bill foreign to its Title.

And it is in violation of Standing Order No. 260 of the Legislative Assembly. Under these circumstances the Bill is certainly out of order. If it had originated in this House, the proper course would be to discharge the order of the second reading, but inasmuch as it originated in the Legislative Assembly, and leave was obtained there to introduce it, I think the more courteous procedure would be for this House to send a Message to the Legislative Assembly drawing its attention to the matter, and for the House to adjourn the further consideration of the Bill until such time as a Message from the Assembly in reply is received.

The COLONIAL SECRETARY (Hon. J. M. Drew): I beg to move—That a Message be sent to the Legislative Assembly in accordance with your ruling.

Motion passed, and a Message accordingly transmitted to the Legislative Assembly.

The President's ruling was not disputed. That seems to me to be the procedure which ought to be adopted in this instance. Mr. Harris raised a point with respect to a

member of the Harbour Trust also being a member of Parliament, and pointed out that the member of Parliament referred to did not receive remuneration for his services to the trust. I desire Mr. Clydesdale to understand the position as I view it; as for myself, the worst that can be said about me is that my bark is worse than my bite. I certainly am one who would not attempt to hit a man when he is down. Even if the member of Parliament on the Harbour Trust were a paid officer, it would not affect the issue. Mr. Harris told the House of his experience when he made a similar challenge, and it was stated that the matter had gone on for 12 years. In reply, the judge said he did not know, nor was he concerned with, what had been done in the past; wrong had been done and it was his duty to right it. As I have said, the ruling I have quoted was not disputed.

Hon. J. Cornell: A No. 2 Bill was introduced leaving that clause out.

Hon. J. J. HOLMES: In the interest of Mr. Clydesdale, or any other member of Parliament, the sooner the matter is cleared up and the responsibility and liability defined, the better it will be for all parties concerned. In view of the opinions expressed by me on this Bill, it can hardly be expected of me to say that I will vote for the second reading.

The PRESIDENT: I trust the hon. member will agree to leave the point of order for me to decide to-morrow, when the two important points of order that have been raised will be gone into thoroughly, and I will be in a better position to give my ruling.

Hon. J. J. HOLMES: Shall I formally move that?

The PRESIDENT: Perhaps it can be done to-morrow.

HON. C. F. BAXTER (East) [5.58]: Less than 11 months ago this House was very concerned about the Lotteries Act, which the Bill proposes to amend. In that short interval of time the Lotteries Act has proved a wonderful success, not only because the lotteries have been economically administered, but because the Act has been responsible for keeping in the State large sums of money which formerly were sent to other parts of Australia as well as to other countries.

Hon. V. Hamersley: Money is still being sent out of the State.

Hon. C. F. BAXTER: That is so, but in a fast diminishing quantity. People now-a-days will not go to the trouble and expense of sending money out of the State when they can so easily purchase tickets locally. I am pleased Mr. Kitson spoke in such glowing terms of the Act, because, if my memory serves me correctly, when I was Leader of the House Mr. Kitson's objection to the measure was that members had had very little time to consider it. To a large extent he was justified in taking up that attitude.

Hon. J. Cornell: He wanted a State lottery.

Hon. C. F. BAXTER: I will come to that point in a moment. Had it not been for the fact that the Lotteries Bill was one of the most discussed measures in the Parliament of Western Australia, I would have felt the same as Mr. Kitson did. The Bill had been torn to shreds before it reached this House so that when it did come before members here, each of us had a good grip of the contents of the measure.

Hon. E. H. Gray: Some amendments were moved.

Hon. C. F. BAXTER: Attempts were made to amend the Bill, and similar attempts were made in this Chamber. I note that the Bill contains one amendment that the Honorary Minister attempted to have included when the principal Act was before this House last session. That amendment appears in Clause 3, and refers to the inclusion of unemployment relief committees among those that may receive donations from the Lotteries Commission. My strongest objection to the inclusion of unemployment relief committees is that such a provision in the legislation will tend to assure the creation of an army of permanently unemployed persons. The unemployed have been fairly well catered for under the Act as it stands, and I think it was stated that £900 had been spent on the purchase of blankets.

Hon. E. H. Gray: How far do you think that money will go in providing blankets for the unemployed.

Hon. C. F. BAXTER: As Mr. Holmes stated, that provision was made for the unemployed although it was never intended that anything of the sort should be done.

Already they have benefited in other directions, and the proceeds derived from the consultations should not be used for the purpose indicated.

Members: Hear, hear!

Hon. C. F. BAXTER: It would be fatal if we agreed to that provision. I can understand Mr. Gray supporting the Honorary Minister, because it suits their particular book.

Hon. E. H. Gray: What are we to infer from that?

Hon. C. F. BAXTER: I do not think the hon. member is so dense as all that.

The Honorary Minister: It would be as well to be a little more explicit and say what you do mean.

Hon. C. F. BAXTER: Very well; I mean that it will put members of the political party they represent in the way of improving their own political position through being able to have money spent in this manner.

Hon. E. H. Gray: Bunkum!

Hon. C. F. BAXTER: You asked for my meaning direct.

The Honorary Minister interjected.

Hon. C. F. BAXTER: It is useless for the Honorary Minister to get annoyed.

Hon. E. H. Gray: Why can't you be fair?

Hon. C. F. BAXTER: Mr. Gray will have an opportunity to speak to the Bill later on.

Hon. E. H. Gray: Be fair, and fight fairly.

Hon. C. F. BAXTER: When the amendment referred to was discussed in this Chamber, it was rejected by six votes to 18, and each of the six who supported it belonged to one political body. After that amendment had been defeated, Mr. Kitson made a further attempt and moved to have the words "including unemployment" inserted in the clause. That also was rejected. I hope the members of this House will not agree to the inclusion of unemployment relief committees under the provisions of the Bill now before them.

Hon. A. Thomson: Mr. Clydesdale told us that the inclusion of unemployment relief committees was at the request of the Government auditor.

Hon. C. F. BAXTER: It is peculiar that it amounts to the amendment that was rejected by this House last session.

Hon. E. H. Gray: That is very unfair.

Hon. C. F. BAXTER: Everything that does not suit Mr. Gray is regarded by him as unfair. I am pleased that I do not possess the narrow vision that Mr. Gray has. I take a view of Clause 3 totally different from that of the two previous speakers. In the first place, it was suggested last session in another place that an amendment should be included in the Bill to protect the position of any parliamentary representative who might be appointed a member of the Lotteries Commission. It was then pointed out—the advice came from the proper source—that there was no necessity whatever for the inclusion of such a provision. The Government of the day adopted that point of view, having been advised that the appointment of a member of Parliament to the commission would not be in contravention of the Constitution Act.

Hon. E. H. Harris: Was that opinion given by the Crown Law Department?

Hon. W. J. Mann: They made a bit of a blunder!

Hon. C. F. BAXTER: It has not yet been proved that a mistake was made. I do not agree that it was.

Hon. E. H. Harris: But was the opinion given by the Crown Law Department?

Hon. C. F. BAXTER: It does not matter by whom the opinion was given; it is shared by many legal authorities to-day.

Hon. E. H. Harris: Who gave the Government that advice?

Hon. C. F. BAXTER: The Government acted on that advice.

Hon. E. H. Harris: Perhaps they got the advice from a layman.

Hon. C. F. BAXTER: Governments do not act on the advice of laymen on such matters. In all good faith, the Government of the day accepted the advice that the position was quite safe. Even when the Bill was before this Chamber, some members approached me regarding that aspect and I assured them that the position of any member of Parliament who might be appointed to the Commission, would be safeguarded. In the meantime, in view of what has happened—

Hon. J. Cornell: I will tell you what happened.

Hon. C. F. BAXTER: It was never understood that members of Parliament would not be appointed. I gave no such intimation.

Members: Yes.

Hon. C. F. BAXTER: I absolutely deny that. I gave no such assurance, either privately or on the floor of the House.

Hon. E. H. Gray: Quite right.

Hon. C. F. BAXTER: That being so, the Government felt that the position, from a Constitutional point of view, was safeguarded. I cannot see any objection whatever to the clause that is included in the Bill to completely safeguard the position, and, in fact, I favour its inclusion. Some members have mentioned Mr. Clydesdale. I do not think it necessary to say anything in praise of Mr. Clydesdale, or in appreciation of what he has done for charity over so long a period.

Hon. G. W. Miles: Everyone agrees with that.

Hon. C. F. BAXTER: There is no necessity to stress that phase.

Members: None at all

Hon. C. F. BAXTER: On the other hand, Parliament should see to it that what they thought should be the position in view of advice tendered to the Government, is maintained, hence the necessity to pass the clause dealing with the Constitution Act. Reference was made to the experiences of Mr. Boan and Capt. Laurie. Their positions were in connection with the State Savings Bank and the Fremantle Harbour Trust respectively, both undoubtedly Governmental activities. The position regarding Mr. Boan was particularly unfortunate, and the Government of the day rectified it straight away. Where there is any possibility of advantage being taken of the position of a member of Parliament in view of the Constitution Act, every safeguard should be provided. What could a member of Parliament make out of a position in connection with the State Savings Bank? It is apparent that in a small community such as ours, the provisions of the Constitution Act operate somewhat harshly. As a matter of fact, if we all lived up to the strict letter of the Constitution Act, probably we would all lose our seats.

Hon. J. J. Holmes: Are you suggesting that we should set the Constitution Act aside?

Hon. C. F. BAXTER: Certainly not. As a matter of fact, a Bill was introduced 15 years ago with the object of amending the Constitution, but some members thought it should be deferred and, consequently, it was set aside. They did not go on with it because it was held it would interfere with

sections of the community other than Parliamentarians. I cannot admit that Clause 4 is in any way at variance with the Title of the Bill. As a matter of fact, it cannot amend the Constitution Act.

Hon. J. CORNELL: If that is so, it is not worth while including it in the Bill.

Hon. C. F. BAXTER: I think that is the position.

Hon. J. CORNELL: What protection will it give a member of Parliament?

Hon. C. F. BAXTER: The principle embodied in Clause 4, which makes the distribution of money by the Commission subject to the approval of the Minister, was thrashed out last session. It means that future lotteries, if we agree to the clause, will be run by the State. In my opinion, the lotteries should be removed from State control as much as possible.

Hon. G. W. MILES: If Clause 4 remains in the Bill, any member of Parliament, who is a member of the Lotteries Commission, would have to resign, because the Lotteries Commission would become nothing but a State utility.

Hon. C. F. BAXTER: I am not so much concerned about that point as I am that the Lotteries Act shall be removed from political control altogether. Many Government activities of to-day should be placed under independent boards. The Mitchell Government were moving in that direction, but we were not successful.

Hon. E. H. GRAY: You were slow on the job.

Hon. C. F. BAXTER: Boards and committees are being appointed now, here there and everywhere. I strongly object to Clause 4, and I hope that members will delete it.

**HON. J. CORNELL** (South) [6.12]: Members are well aware that I brought all my persuasive eloquence to bear last session to defeat the Lotteries (Control) Bill. I had at the back of my mind one man—the then Minister for Police who introduced the Bill in the Legislative Assembly. I was desirous that such a capable Parliamentarian should not commit political suicide, which he did through introducing the legislation. Now the Act has been in operation for 11 months, I am of opinion that it has done a lot of good. The Bill is essentially one for consideration in Committee, for if we were to defeat it at the second reading

stage, it would mean the abolition of the lotteries at the end of this year.

*Sitting suspended from 6.15 to 7.30 p.m.*

Hon. J. CORNELL: Before tea I was about to deal with the proposed amendment to Clause 2. That amendment in essence means that any body, incorporated or otherwise, having for its object the relief of unemployed persons in a State may participate in the distribution of profits from any lottery practically on the same lines as may the charitable institutions defined in paragraphs (a) to (h) in Section 2 of the Act. The Honorary Minister is consistent. If members turn to "Hansard" of last year, page 2733, they will find that he moved for the insertion of an amendment as follows:— "Any body organised for the purpose of dispensing relief to the unemployed." That object was practically identical with the provision in paragraph (gg) of Clause 2. I do not intend to weary members by recapitulating what was said for and against that proposal beyond stating that 11 months ago members decided by 18 votes to six to reject the amendment—an amendment, as I have pointed out, identical with the amendment now proposed. If circumstances have so altered in 11 months as to justify the somersaulting of practically one-half of the 18 members to carry the proposed new paragraph, well, it is beyond my comprehension. After less than a year's experience of the legislation and in view of the adverse vote on an identical principle last session, it might have been better had the Government sought to amend Section 19 of the Act which provides that from the proceeds of each lottery, with the approval of the Minister, any body relieving unemployment may participate to the extent of £250. The Government would have had a better chance to secure an increase in that amount than to obtain approval for the amendment now proposed.

Hon. A. THOMSON: With 14 consultations and £250 from each, there would have been a reasonable sum.

Hon. J. CORNELL: It would have been wiser for the Government to seek an increased amount rather than to go for open play, in view of the adverse vote in this Chamber last session. My conception of the measure authorising lotteries was that

it was introduced to benefit charitable institutions. If members peruse Section 2 of the Act, they will find "charitable purpose" defined as including any public hospital, any free ward, any private hospital, the relief of former soldiers, sailors or nurses, any institution for the instruction or care of the blind, deaf or dumb, any orphanage or foundling home, any home or institution for the reception of dying or incurable persons in indigent circumstances, any body incorporated that distributes relief to sick, infirm and indigent persons, provided the Minister is satisfied that the activities of such body extend substantially throughout the State, and any body whose activities are substantially State-wide dispensing voluntary aid, medical or nursing advice to expectant mothers. That is a fairly wide field and indicates clearly that the object in view was to utilise the profits from the lotteries for charitable purposes. I have my own opinion as to the dispensing of relief to the unemployed. It is the function of the State to provide unemployment relief, and if the situation is such as to render necessary the distribution of blankets, as the Honorary Minister said had been done and was intended to be done, we have only to recall from what source the unemployed were assisted in years gone by. They were assisted from Consolidated Revenue or from loan funds, and so far as I am concerned, that position will be maintained. I do not think we can regard unemployment or the demands of the unemployed in the same way as we regard a charitable institution. In Committee I shall vote against that provision. Clause 3 provides an amendment to continue the stipulation that members of the commission shall not be entitled to any compensation should their office be abolished. That provision can well be agreed to. Paragraph (j) purports to exempt any member of the commission who happens to be a member of Parliament from liability under the Constitution Act. I wish to preface my remarks about the commission with a brief recapitulation of what occurred at a meeting of the Returned Soldiers' League Executive. A motion was moved protesting against members of Parliament acting on the commission and probably drawing emoluments for so doing. In opposing that amendment, I adopted this attitude: For 18 months when there was no legislation everyone thought that the commissioners were the proper per-

sons to control lotteries. Not the slightest objection was raised to the four commissioners. The objection was raised immediately legislation was passed to control lotteries, legislation that gave the commissioners a status and allowed them to split £1,000 amongst the four. Those who are objecting to members of Parliament acting on the commission are not out after members of Parliament; they are after the money. When there was no money attached to the job, nobody wanted it and nobody protested. Immediately money was attached to the job, there were protests because others were after the job. In making that recapitulation, I think I have shown clearly how I viewed the commission before they had any legal status and how I view them now. It has been said that a year ago Parliament intended that any member who acted on the commission should have immunity under the Constitution Act for holding an office of profit under the Crown. I deny that. There is nothing on record to show that that was ever discussed. If members turn to "Hansard," page 2635, they will find that when Clause 3 of the original Bill was under consideration in another place, it contained a paragraph (j) which read—

No person shall suffer any disqualification under Section 32 of the Constitution Acts Amendment Act, 1899, by reason of being a member of the commission.

That paragraph appeared in the Bill as it came to us from another place and I presume that it was inserted on the advice of the Crown Law authorities.

Hon. E. H. Harris: It was said so at the time.

Hon. A. M. Clydesdale: It was left in the Bill in error.

Hon. J. CORNELL: It was inserted by the Crown Law authorities to ensure that if the gentlemen then acting were reappointed, they would have immunity under the Constitution Act in the event of any law suit arising based on the contention that they were holding an office of profit under the Crown. Otherwise, why was the paragraph inserted in the Bill? When the measure was before another place a noted K.C., a member of that House, asked—

Will the Minister explain the necessity for including the paragraph?

The then Minister for Railways expressed the opinion that there would be no disquali-

fication of any member of the commission, but he suggested that a paragraph might be inserted in order to have a definite understanding that, in the event of a member of Parliament being selected, he could act without disqualification under the Constitution Act. That was definite enough, and came from the Minister in charge of the Bill in reply to Mr. Keenan's query.

Hon. A. Thomson: Apparently Mr. Keenan thought it was not necessary to have the paragraph there.

Hon. J. CORNELL: Members will find that the Minister in charge of the Bill was of the belief that such a paragraph should be in the Bill, because he said, "If a member of Parliament were selected, he could act without disqualification under the Constitution Act." That was Mr. Scaddan who spoke, and he was in charge of the Bill. Mr. Keenan then said—

I do not know that disqualification would arise if a member were appointed to the commission, but the paragraph would appear to contain an invitation to challenge the right of a member to sit. There is no need to suppose that a member, by reason of sitting on the commission, would commit a breach of Section 32 of the Constitution Act. Still, why not mention butchers, tailors, and others?

The Minister for Railways interjected that he had no objection to the paragraph being deleted, and Mr. Keenan continued—

The paragraph would appear to import some wish that members of Parliament should constitute the commission, and for that reason the paragraph would be objectionable.

Evidently Mr. Keenan was against members of Parliament being members of the commission. Mr. Keenan had two objections, one being that the paragraph was not necessary and the other that it suggested that members of Parliament could and would and should be appointed to the commission. Mr. Keenan's remarks which I have quoted are the only ones I can find as having been made by him. Then the matter was dropped while the debate proceeded on other parts of the Bill. We turn next to page 2640 of "Hansard," and there we find that the Minister for Railways moved to strike out paragraph (j). There was no debate and the paragraph was struck out. I have given the then Minister's considered opinion which, no doubt, was backed up by the Crown Law Department, that paragraph (j) was necessary to give members of Parliament im-

munity should they be appointed to a seat on the commission. Next we have Mr. Keenan in a vague way saying that the paragraph was unnecessary, and also suggesting that it might import some wish that members of Parliament should constitute the commission. Next the records show that the paragraph was deleted without any discussion, and so ended the episode in another place. Now we turn to what took place in this House. We find on page 2735 of "Hansard" that Mr. Baxter was then the Minister in charge of the Bill. Tonight Mr. Baxter has made statements which are altogether misleading. At any rate, they are not in accord with the records of this House. In no part of Mr. Baxter's remarks, or at no stage of the debate on that paragraph, was any reference made to an office of profit under the Crown or members of Parliament acting as commissioners.

Hon. C. F. Baxter: I did not say there was.

Hon. J. CORNELL: I understood the hon. member to say so when he spoke this afternoon. I thought he declared that it would not be an office of profit under the Crown and that if a member of Parliament accepted the position as a commissioner he would be immune from Supreme Court action. Where was that said?

Hon. C. F. Baxter: I said that in private conversation with members.

Hon. J. CORNELL: When the Lotteries Bill was before the Committee in this House last session, there was no debate at all on the question as to whether or not a member of Parliament could act on the commission or whether he should be given immunity.

Hon. C. F. Baxter: It was never mentioned at all, as far as I can remember.

Hon. J. CORNELL: This is what occurred. If members will turn to page 2375 of "Hansard" they will find that all the argument that did occur on the paragraph was that it should not have appeared in the Bill. The Chairman of Committees took the only logical line of reasoning that he could follow. The paragraph in question did appear in the Bill, and the Bill had been certified by another place. It was not the concern of the Committee as to whether or not the paragraph had been struck out in another place. Mr. Holmes did raise the point that as the Bill contained something that had been struck out by another

place, the Bill therefore was not in order. That difficulty was overcome. The then Chief Secretary explained that paragraph (j) had been struck out, but had inadvertently been permitted to remain in the Bill. It was then, on the motion of the Chief Secretary, that the paragraph was struck out. The Bill as originally drafted gave members of Parliament who might hold seats on the commission immunity under the Constitution Act. On the advice of a lawyer in another place, the Minister in charge of the Bill agreed to take the paragraph out: When the Bill came here, the argument centred around the question, who put it in the Bill, and it was struck out in this House. There was no argument here as to whether a member of Parliament should or should not act as a commissioner. Now we want to know on whose advice the paragraph was struck out of the Bill last session, and whether the gentleman who gave the advice last session is retracing his ground by inserting it in the Bill now before us and giving it retrospective effect. I am given to understand that the hon. member who was responsible for striking out the paragraph last session turned a complete somersault, and now has gone back to the beginning by making the clause retrospective. I am not averse to a member of Parliament acting on the commission or holding a seat on any other semi-public body, but, as Mr. Baxter has pointed out, we have a Constitution which says that a member of Parliament shall not hold an office of profit under the Crown. If, for argument's sake, a member of Parliament is appointed a commissioner, does he hold an office of profit under the Crown? Some members have said that he does not, but they are going to support the amendment. I am not one who would give an opinion as to whether or not a member of Parliament, acting as a commissioner on the Lotteries Commission, does hold an office of profit under the Crown. I am, however, concerned about this aspect: that some proviso might be inserted which will make confusion worse confounded. I submit, that assuming a member of Parliament acting as a commissioner is said to be holding an office of profit under the Crown, the only immunity we can give him is immunity under the Constitution Act, and that can only be done by an amendment of the Constitution Act. I submit it would be infinitely better to tackle the proposition, not so much from the point of view of a member of the Lotteries Com-

mission, but generally, and amend the Constitution Act. We merely require a majority in each House to secure that amendment. But the way we are proceeding now is dangerous in the highest degree. In the Bill we are considering we propose to say in simple words, "Notwithstanding anything to the contrary contained in the Constitution Act, 1899, a member shall not be considered to hold an office of profit under the Crown." If it is to do any good it must mean that, and if it means that, why not tackle the question foursquare and amend the Constitution Act? If it does not mean that, it means nothing to any member of Parliament who may be a commissioner now or in the future. I have a perfectly open mind as to whether members of Parliament should fill such positions. If one thing stands to the credit of W. M. Hughes, it is his dictum as to wharf labourers. I say there is just as big percentage of honest men amongst members of Parliament as is to be found in any other section of the community. There is much in what Mr. Seaddan said last year in regard to members of Parliament serving on that commission, when he declared they had an obligation to be just, and that they had a tribunal to which to appeal, namely the electors. Then there is the retrospective aspect of the proposal. Members should think long before taking legislative action that is liable to receive the interpretation of our law. While one may be able to extend commiseration to a member of Parliament who is implicated, any member of Parliament so situated must view the position just as gravely as I do in its retrospective aspect. If to-morrow a Bill were brought down to tackle the question by an amendment of the Constitution, I would support it. If proposed paragraph (j) gives the protection it is claimed to do, gives immunity, we are in a peculiar position. I will leave the question of paragraph (j) at that. Now we come to the proposed new clause to give certain powers to the Minister, to make the commission subservient to the Minister. I want to pay a tribute to Mr. Clydesdale and his fellow commissioners, and particularly to Mr. Buscombe, their adjutant, for the manner in which the lotteries have been conducted, and upon the confidence now reposed by the public in the commission and in the office staff. We are going to disturb that confidence, and probably we shall do injury where good now obtains. What is wrong with the adminis-



tration of the commission? Why should the Minister come into the picture more than he has done in the past? Personally I can see no reason whatever for it. Although in a sense the Minister plays second fiddle to the commission, the commission does nothing of a serious or far-reaching nature in respect of policy unless and until they have consulted the Minister. I happen to know the four commissioners, and I am satisfied that that is what they do. It is my advice to the House and to Cabinet to leave well alone until such time as the confidence now reposed in the commission is disturbed. It is extraordinary that those responsible for restricting the duration of the existing Act to one year, now want to extend it to three years. Mr. Clydesdale, by way of interjection, said that a proper policy cannot be formulated in one year. I think the limiting of the Bill of the last session by the then Leader of the Opposition, now Premier, to a year was one of the most astute and adroit moves I have known in Western Australian politics. For at that time public opinion was divided as to the wisdom of setting up the commission. It meant that if it were not a success, and if the then Leader of the Opposition became Premier, as has happened, he would be in the happy position of being able to say he had kept it going for 12 months in order to give it a trial, that it had not turned out as expected, and so he would not go on with it. But he had a second string to his bow, and since the commission has turned out a success and gained public confidence, the Premier now says that he thinks it ought to continue for another three years. I hope the Council will return the act of grace by making the time two years. Then, probably, the hon. gentleman will have to toe the line in two years' time, on the eve of an election, just as Mr. Scaddan had to do. I will support the second reading.

**HON. L. B. BOLTON** (Metropolitan) [810]: I, too, will support the second reading, but I am not in favour of the proposed amendment in Clause 2, for it is too dangerous. Personally I have no objection to the charities of the State receiving a fair proportion of the proceeds of the lotteries, but I do object to any of the money going to the unemployed. Also I will oppose the amendment in Clause 4, giving the Minister control over the distribution of the fund. I am per-

fectly satisfied with the present composition of the commission, and more than satisfied with the work of the commission and the result of the lotteries up to date. I have had a lengthy experience of the control of some charities. Were I holding the responsible position I held some years ago, I would certainly appreciate the results of the work of the commission. I was a member of the Fremantle Hospital Board for 14 years, most of the time as chairman, and I knew what it was to struggle on, trying to maintain that institution on a Government subsidy of £5,000 per annum, and to control and finance that institution which cost anything from £12,000 to £16,000 per year to run. Having had that experience, I can imagine the feelings of managers of like institutions to-day when they are able to look forward to substantial amounts from the Lotteries Commission, amounts that we could not look forward to in our day. I have not the slightest objection to any amount which I might put into these lotteries, or a large proportion of it, being allocated to the charities of the State. I will go farther and say that, long before the members of the commission were appointed to their posts, I fully appreciated their charitable work. Nobody could have a higher admiration of the charitable work done by Mr. Clydesdale and Mr. Harry Mann than I have, for I am still associated with some institutions that should derive benefit from the lotteries fund. I am conscious of the study that Mr. Harris must have given to the constitutional aspect, but as a young member of the House I feel that my own sense of justice and common sense would come even before the Constitution. I may be wrong in saying that, but I do appreciate the charitable work that is being done on behalf of the State, and the manner in which Mr. Clydesdale and his colleagues are doing it. One thing I object to is the continuance of minor sweeps and lotteries, and I hope that if the commission are given—as I believe they will be given—a new lease of life, they will endeavour to put a stop to those enterprises. Some years ago when, as chairman of the Fremantle Hospital Board, I gave evidence before a Royal Commission, I advocated two things, both of which have since been brought about: one was the hospital tax, and the other the control of lotteries for the benefit of the charities in the State. My opposition to the amendment for the participation in the lotteries fund of committees having for their object the relief

of the unemployed, has no ulterior motive. I would not impute motives to the Minister, but I feel that other avenues have been made available for the maintenance of the unemployed, and I will not be a party to including unemployed relief committees in the division of the lotteries fund. For that reason I object. I also object to the Minister taking control, because I feel that the present commission as constituted would have the confidence of the public to a greater extent than one man would, even if he were a Minister of the Crown. I will support the second reading, but in Committee will oppose the clause relating to unemployment, and the clause which gives the Minister control over the allocation of the fund.

**HON. J. NICHOLSON** (Metropolitan) [8.15]: The clauses of the Bill have been so thoroughly discussed that there is very little left to add to the debate. It is generally acknowledged by members as well as by the general public that whatever their views may have been when the Lotteries (Control) Bill was brought down last session, owing to the manifestly good results achieved by the commission, there is left in the minds of practically all a belief that the commission have done good work, and have regulated, in a very beneficial way, that which might have been a rampant evil in our midst. I am not condoning the immorality of lotteries.

The Honorary Minister: Are they immoral?

**HON. J. NICHOLSON**: They are said to be. Let me say they are undesirable in the interests of the public. They are not the most beneficial thing in the way of helping the morals of the people. When such evils creep into our lives it is necessary for the legislature to see what can be done to regulate them. I am agreeably pleased with the results achieved by the commission, and unless we had exercised some such control, the evil would undoubtedly have spread so far as lottery tickets from the Eastern States are concerned. At one time the influence of those tickets was most pronounced. As the Honorary Minister has said the commission has minimised that evil, and has diverted to our own charitable institutions large sums of money that were previously going away, and from which our institutions are deriving great benefit. There is one man whose influence and guidance

stand apart from every other member of the commission. I refer to Mr. Clydesdale. I am not belittling the good work that is also carried out by the gentlemen associated with him. For many years the hon. member has shown a very keen and active interest in charitable objects. Had it been left to the general public to select the commissioners, I feel sure he would have been returned at the head of the poll. We now find that the hon. member is confronted with a position which he never anticipated would arise when he accepted the office in question. Mr. Cornell referred to what happened last session. Obviously the Minister in charge of the original Bill believed that no member of Parliament would be taking any risk if he accepted a position as one of the commissioners.

Hon. J. Cornell: The Minister took the opinion of outside lawyers against his own.

**HON. J. NICHOLSON**: We are left to assume that, and have no direct evidence as to what advice was tendered to him.

Hon. J. Cornell: It all happened in ten minutes.

**HON. J. NICHOLSON**: Apparently he did not think the clause that was then inserted was necessary, but it was put in as a precaution to protect any person who might be appointed to the commission.

Hon. J. Cornell: He thought it would protect that person.

**HON. J. NICHOLSON**: It was not thought that a member of Parliament who might be appointed a member of the commission would be liable to disqualification under the Constitution Act. Whatever opinions were held then it seems that the views of all concerned were mistaken. The discussion ranges chiefly around the clause which seeks to amend the Constitution. It is only right that the minds of members should be directed to one or two aspects of the Constitution Act, so that they may give consideration to these when determining the attitude they will adopt. Certain members have suggested that points of order will be raised. No doubt these are very important, and are worthy of the deepest consideration. If any attempt is made to alter the Constitution it is well to see that no alteration is made by virtue of any measure which is not itself an amendment of the Constitution Act. That is a wiser course to adopt.

Section 73 of the Constitution Act of 1899, says—

The Legislature of the Colony shall have full power and authority from time to time by any Act to repeal or alter any of the provisions of this Act.

Hon. J. Cornell: That means we can do it under the Criminal Code.

Hon. J. NICHOLSON: The matter requires very careful consideration. It has been said there is a precedent for this in the Harbour Trust Act when what amounted to an amendment of the Constitution Act was embodied in that Act some years ago. It may be argued that when that particular amendment was introduced no objection was taken, such as has been taken now, as to whether or not it was in order. The Act was passed and is now on the Statute-book. The Bill before us does not say it is one to amend the Constitution Act, 1899, but is one to amend the Lotteries (Control) Act.

Hon. G. W. Miles: The procedure is set out in Section 73 of the Constitution Act.

Hon. J. NICHOLSON: I am coming to that. But I am doubtful as to what precisely the words "any Act" mean.

Hon. G. W. Miles: What about the proviso?

Hon. J. NICHOLSON: Just give me an opportunity to explain.

Hon. J. Cornell: Does the hon. member seriously assert that provision could be inserted in the Bill to amend the Dog Act?

Hon. J. NICHOLSON: I am not alleging anything of the sort. The hon. member will bear in mind that I expressed the view that any Bill which contemplated the amendment of the Constitution Act ought to be a Bill to amend the Constitution Act. I have already made that statement. However, I noticed this provision and I thought it but right to call the attention of hon. members to it. The objection which could be advanced against embodying an amendment of the Constitution Act in a Lotteries Amendment Act or in the Criminal Code or in the Dog Act or any other Act, is that the amendments to the Constitution would become increasingly difficult to find. I contend the proper course to adopt is to introduce a Bill to amend the Constitution Act. Mr. Miles referred to the proviso to Section 73 of the Constitution Act. The power there given is to repeal or alter certain of the provisions embodied in the Constitution Act; for

example, the qualification of electors and the tenure of office of members of Parliament, etc. Those matters are part of the Constitution.

Hon. J. Cornell: And the franchise.

Hon. J. NICHOLSON: Yes. Those matters are vital to the Constitution; but there are embodied in the Constitution Act other provisions which in themselves strictly do not form part of the Constitution. Every provision in the Constitution Act is not a vital part of the Constitution. There are sections dealing with the question of member holding offices of profit from the Crown and their liability to have their seats declared vacant in consequence of certain disqualifications. Mr. Harris referred particularly to Subsection 6 of Section 38 of the Constitution Act Amendment Act, 1899, by which a member incurs the penalty of having his seat declared vacant if (among other things) he accepts an office of profit from the Crown, other than of an officer of Her Majesty's sea or land forces on full, half, or retired pay. Paragraph (j) of Section 3 of the Bill now under consideration provides that no person appointed a member of the commission before or after the commencement of the Act, shall be subject to any disqualification, disability or penalty under the Constitution Act Amendment Act, 1899, by reason of being or having been at any time a member of the commission. If, however, members will turn to the original Constitution Act of 1899, they will find Section 6 provides that no member of the Legislative Council shall hold any office of profit under the Crown other than such as is liable to be vacated on political grounds, or than that of an officer of Her Majesty's sea or land forces on full, half, or retired pay.

Hon. J. Cornell: That is the same as Section 38 of the 1899 Act.

Hon. J. NICHOLSON: I admit that. If it is competent to pass in a Lotteries Act a clause in effect amending the Constitution Act, then we are limiting the amendment only to the Constitution Act Amendment Act of 1899, and not embodying it in the principal Act of 1899.

The Honorary Minister: I thought the amendment covered that.

Hon. J. NICHOLSON: That has been overlooked, obviously. There are many other aspects of this question which one could perhaps discuss, but if we are to amend our Constitution Act, then I think

we should follow the usual procedure and introduce a Bill to amend the Constitution Act itself. One wants to see the member concerned in this matter protected as much as possible, in view of the fact that he was appointed to the position he occupies, and he accepted the appointment in the belief that he was running no risk in doing so. Mr. Holmes has suggested one way out of a difficult position. I prefer, however, at this stage to await your ruling, and then I will determine how I shall vote.

**HON. G. FRASER** (West) [8.43]: I was one of the members who last year strenuously opposed the Lotteries Bill.

Hon. E. H. Harris: Have you any present regrets?

Hon. G. FRASER: No. At least I am prepared to admit that the attitude I took up on that occasion was wrong.

Members: Hear, hear!

Hon. G. FRASER: I draw Mr. Holmes' attention to the fact that change of my ideas has not meant a change of my seat.

Hon. W. J. Mann: You did not have the chance.

Hon. G. FRASER: One of the main reasons why I opposed the measure last session was because I was desirous of a State lottery being established. I believe the Government of the day regarded the gambling evil so seriously that they desired to get control of it. I believe that if last session the measure then before us had been defeated, the Government would have had no option but to introduce a Bill for the establishment of a State lottery. That was one of the reasons why I moved that the Bill on that occasion be read that day six months. It was introduced on the last day of the session.

Hon. J. J. Holmes: If it were the last day of the session, how could the Government introduce another Bill?

Hon. G. FRASER: I was not particular about its being introduced at that time.

Hon. J. Cornell: Then the Government went out of office.

Hon. G. FRASER: The fact that a clause was deleted but still remained in the Bill when it arrived here, was in itself justification for the attitude I adopted. Not only were we not given sufficient time within which to consider the measure, but it was brought forward too hurriedly. That represented the main basis for my objection to

the Bill last session. Many of my fears have proved groundless, and I have to pay tribute to the work of the Lotteries Commission during the last 12 months. I realise that there is no hope of achieving my objective of a State lottery, and therefore adopt Mr. Holmes' principle of agreeing to half a loaf if a full loaf is not available. I cannot understand the objections raised to Clause 4. I believe that the Minister should have some say regarding the distribution of funds available for charitable objects. Parliament agreed that the Minister should have some say in the number of lotteries to be conducted, and if it was right to go along the road to that extent, it should be equally right to pursue the course along that road a little further and allow the Minister to have some say in the allocation of the funds. I am still more surprised at the opposition raised by members to the inclusion of unemployed relief committees among those to whom assistance may be rendered by the Lotteries Commission. Some members seem to have an idea that those who will secure the assistance will be those who are already in receipt of relief work. That is not the position.

Hon. J. J. Holmes: It is entirely at the Minister's discretion.

Hon. G. FRASER: The bodies who, it is suggested, shall be assisted by the Lotteries Commission are those who are dealing with people who are absolutely unemployed, and are in receipt only of ration tickets and small payments. Some are in receipt of as little as 7s. a week although the payments range from 7s. to £2 9s. a week. Those are the unemployed persons to whom assistance is to be rendered under the clause that has been so strenuously opposed by some members. It must be obvious that people in receipt of that assistance cannot possibly clothe themselves, let alone pay their rent. Those are the people it is suggested the Lotteries Commission shall assist.

Hon. A. Thomson: The commission can do so under the Act.

Hon. G. FRASER: There must be some reason prompting the amendments included in the Bill.

Hon. J. Cornell: They were submitted last session by Mr. Kitson.

Hon. A. Thomson: They have been included because of the points raised by the Auditor-General.

Hon. G. FRASER: Whatever the reason may be, the members of the Lotteries Commission desire the amendments to be included in the Act.

Hon. A. Thomson: I do not think so.

Hon. G. FRASER: Mr. Clydesdale informed us the amendments were inserted at the request of the Lotteries Commission.

Hon. A. M. Clydesdale: No; because of the points raised by the auditor.

Hon. G. FRASER: I cannot see why the commission should not have the right to distribute money among the unemployment relief committees. It will not be compulsory for the commission to do so. It will be for the commission to determine whether the bodies are deserving of assistance. The relief committees that will be recognised by the commission are the registered unemployment relief committees that are organised with a central relief committee; the bodies concerned will not be unregistered concerns. I trust members will reverse their expressed decisions, and vote for the inclusion of the clause I refer to. The other matter to be dealt with relates to the position of members of the commission. I do not intend to discuss the Constitutional aspect, or whether members of Parliament should be members of the Lotteries Commission. Members generally are prepared to do what they can to assist one of their number who finds himself in trouble through no fault of his own. When the Act was before the Legislative Assembly last session, a clause similar to that appearing in the Bill this year was deleted on the understanding that it was not necessary. Subsequently, in all good faith, the Government approached a member of Parliament and he, also in good faith accepted an appointment to the commission. Now some doubt has been expressed as to whether the action taken was in conformity with the provisions of the Constitution Act. My attitude is that as the Crown Law authorities believe the clause is necessary in order to afford the desired protection, I shall support it.

Hon. J. J. Holmes: Did they not say it was unnecessary last year?

Hon. J. Cornell: No, they said it was.

Hon. G. FRASER: I do not know. I will accept their version because, whatever we may do, the final decision will rest with

the law courts. I shall support the Bill as it stands and I hope members generally will adopt a similar attitude.

**HON. A. THOMSON** (South-East) [8.55]: I have listened with great interest to the views expressed by members regarding the Constitutional aspect, or whether the Bill is properly before the House, or whether a member of the commission holds a position of profit under the Crown. The general opinion seems to be that the action of the Mitchell Government, in passing legislation to control lotteries, has been beneficial and of great assistance to the various charities. The proposal to include unemployment relief committees among those to whom assistance can be rendered by the commission, does not meet with my approval. As the Act stands to-day, the commission have power to assist indigent persons.

Hon. E. H. Gray: Why not make it definite?

Hon. A. THOMSON: In my opinion it is definite. I am also opposed to the proposal to give the Minister control of the distribution of funds. If we were to agree to that, we would certainly place members of the commission in the position of holding offices of profit under the Crown. Personally I would like to have a definition of "office of profit under the Crown." I disagree from the opinions expressed by some speakers who have contended that members of the commission do hold offices of profit under the Crown. The provisions of the Constitution Act have been freely quoted, and I propose to show that, from a financial point of view, the Lotteries (Control) Act, whereby members of the commission may receive amounts that may not exceed in the aggregate £1,000 in a year, does not come under that category. Section 65 of the Constitution Act reads—

The Consolidated Revenue Fund shall be permanently charged with all the costs, charges and expenses incident to the collection, management, and receipt thereof, such costs, charges, and expenses being subject, nevertheless, to be reviewed and audited in such manner as is directed by the Audit Act, 1881, or as may from time to time be directed by any Act of the Legislature.

Section 68 reads—

No part of the public revenue of the colony arising from any of the sources aforesaid shall be issued except in pursuance of war-

rants under the hand of the Governor directed to the Treasurer.

Hon. E. H. Harris: Do you suggest that the Auditor-General should audit these accounts?

Hon. A. THOMSON: I am dealing with the Constitution Act in the same way as the hon. member dealt with it when he suggested that, in his opinion, members of the commission held offices of profit under the Crown. Then, in the Constitution Acts Amendment Act of 1899, there is Section 46, which, *inter alia*, provides as follows—

(6). A Bill which appropriates revenue or money for the ordinary annual services of the Government shall deal only with such appropriation.

(7). Bills imposing taxation shall deal only with the imposition of taxation, and any provision therein dealing with any other matter shall be of no effect.

(8). A vote, resolution, or Bill for the appropriation of revenue or moneys shall not be passed unless the purpose of the appropriation has in the same session been recommended by message of the Governor to the Legislative Assembly.

In my opinion no money can be paid to any individual working for the Government unless it is appropriated by Parliament and sanctioned by message from the Governor. The Lotteries Act is one to make provision for the conduct and control of lotteries and other similar devices. A body corporate is constituted under the name of the Lotteries Commission and given perpetual succession. The commission consists of four members, three to form a quorum. The members of the commission hold office for one year, but at the expiration of that time are eligible for reappointment. The Minister may sanction the payment of a fee to each member as remuneration for his services at the conclusion of each lottery, but the aggregate fees payable in respect of each lottery shall not exceed  $2\frac{1}{2}$  per cent. of the gross subscriptions. The payment of such fees is conditional on the prior payment of all other expenses and prize moneys, and on the conduct of the lottery in accordance with the conditions of the permit. The aggregate fees payable to all the members in any one year must not exceed £1,000. Some members have contended that the office is one of profit under the Crown. On the sections I have quoted, I consider it is a debatable point whether it is an office of profit under the Crown.

Hon. J. J. Holmes: Is not the Act administered by a Minister?

Hon. A. THOMSON: The Minister simply has authority to appoint a commission, but the commission have absolute control over the expenditure of the money.

Hon. J. J. Holmes: If anything went wrong with the commission, who would act?

Hon. A. THOMSON: We are not dealing with that phase.

Hon. J. J. Holmes: It should be considered.

Hon. A. THOMSON: As you, Mr. President, have two points of order on which to give a decision to-morrow, I am also submitting this phase for your consideration. My opinion is supported by the quotation from "Hansard" by Mr. Cornell, that last session, paragraph (j) was deleted from the Bill because a leading K.C. in another place considered it was unnecessary. I am satisfied that his opinion was backed by that of the Crown Law authorities. However, a member of the Legislature has been placed in a very embarrassing position, and I am sure every member is desirous of seeing that justice is done to that gentleman. We cannot escape the fact that when the Government appointed him to the position, they were firmly convinced on the information submitted to them that he could act without incurring responsibility under the Constitution Act. Our knowledge of the hon. member satisfies us that if he had had any doubt that he was being offered an office of profit under the Crown, he would never have accepted the position. The instances given by Mr. Holmes were certainly offices of profit under the Crown. The excellent work performed by the members of the commission, the amount of relief extended to charitable institutions and the amount of money kept within the State as a result of the operation of the Act, have fully justified the action of the previous Government in introducing the legislation. I intend to support the second reading, but in Committee I hope we shall be able to delete two clauses which to me are objectionable. I trust it will be found possible to overcome the unfortunate constitutional position affecting one member of the commission.

**HON. R. G. MOORE** (North-East) [9.7]: I do not intend to deal with any of the amendments contained in the Bill because I am going to oppose the second reading for the same reasons that I advanced when the legislation was introduced last session. In my opinion the Bill is wrong in principle; such legislation must have a demoralising effect on the people and is economically unsound. I know I shall not be very popular for expressing such opinions, but while I realise that the object is worthy, I do not consider that the end justifies the means. It has been stated that, since the inception of the lotteries, a large sum of money that would otherwise have been invested in Eastern States lotteries has been kept within the State, but no figures have been supplied to substantiate that statement, and I am of opinion that if we had the figures, the opposite would be proved. We know that the people of Australia have a weakness for indulging in gambling, but it should not be the province of Parliament or of the Government to encourage that weakness. Rather should it be their duty to do everything possible to restrain it. I believe that by introducing lotteries we have encouraged the gambling instincts of the people and that the supply in this instance creates the demand. If lottery tickets were not made available by other States, they could not be purchased. If we had a lottery once a week, as the Minister mentioned when moving the second reading, the tickets would be sold. The supply would create the demand. The Minister applauded the fact that 132,000 tickets had been sold in a month, and said that some people would want one lottery a week.

The Honorary Minister: I did not say that.

**Hon. R. G. MOORE**: Then it was mentioned by another member.

**Hon. C. B. Williams**: The lotteries are becoming as popular as is sea bathing.

**Hon. R. G. MOORE**: I am not doubting their popularity, but I am contending that they are too popular. The figures quoted show that roughly £77,000 has been collected for the purposes of charity. That money has been taken from the pockets of the people, but only £32,000 of it has been allocated to charities. The proposition is economically unsound. If we collect £77,000 from the people in order to get £32,000 for charities, it cannot be a sound proposition.

The Honorary Minister: Tell us any other method by which we could raise the money.

**Hon. R. G. MOORE**: There are constitutional methods to finance all such needs. It is only because the Government are following the line of least resistance that lottery legislation has been introduced.

**Hon. C. F. Baxter**: The present Government are only continuing the legislation.

**Hon. R. G. MOORE**: That is so, because they consider it an easy way of getting money, although it is an expensive way to the people. Whether it is right or wrong does not concern the Government. It is an easy way to get the money, and they are prepared to play on the gambling instincts of the people regardless of the demoralising effect. That is not the attitude that Parliament or the Government should adopt. We know that in other directions supply creates a demand. Take the picture shows: I do not wish to be misunderstood in my references to the picture shows. I have nothing against them; I simply quote them as an illustration. At one time we had no picture shows. Then they were introduced and showed once a week. Later they showed twice a week; and then they showed every day, and now they show day and night. The reason is that the supply has created a demand, and the same thing applies to the lotteries. We may advertise the lotteries and boom them, and the people will respond. Money would not be spent on lotteries to anything like the same extent if legal authority were not given by Parliament and if the facilities for indulging were not provided. The principle is absolutely wrong; the Government are following the line of least resistance. The Government know very well that if they wanted to raise the money, they could get it. It is bunkum to say they cannot get it; they know they can get it. When they wanted money for the unemployed or for hospitals, they did not propose a sweep. They said to the taxpayers, "This money is required and you must pay it," and that was the end of it. We need a Government with backbone enough to do the legitimate thing and not resort to a measure of this kind under the guise of charity. No one can contend that it is a sound proposition to take £77,000 from the people in order to obtain £32,000 for charity?

**Hon. E. H. Gray**: A £1,000 prize is too good, is it?

Hon. R. G. MOORE: With regard to the amendments, I am not worrying as to whether the fact that a member of the legislature occupies a seat on the Commission is constitutional or not, while for the Bill itself I see no reason to change my views: they are exactly the same as those I expressed last year. As a matter of fact, the results that have followed the conduct of the consultations rather strengthen my opinions. It is useless saying that people cannot afford to give money for charitable purposes, because they are doing so through the process of gambling. In my opinion gambling is a stupid thing, no matter from which angle you look at it. There is only one man who makes a success of it, and that is the man who carries the bag. It is he who makes the money. Gambling generally is demoralising in its effects, and it is economically unsound. For these reasons, I intend to oppose the second reading of the Bill.

HON. C. B. WILLIAMS (South) [9.18]: I intend to support the second reading of the Bill; I supported it last year. Everybody likes to get out of the rut and this is one method by which anyone can try to get rich quickly. I should like to draw Mr. R. G. Moore's attention to the fact that arguments similar to those he used were advanced in New South Wales by people who were opposed to consultations for charitable purposes. Those people were given the opportunity to raise money in other ways, but they failed miserably. The Government told them that if they could raise money in their own way, a Lotteries Bill would not be presented to Parliament. The Bill, however, was introduced, and as we know, the lotteries in New South Wales have been the means of raising an enormous sum of money for charity. It is rather late in the day for anyone to attempt to effect reform in this direction. After all, life is a gamble; it is a gamble to walk across the street. So why all the bother about it? There is no chance whatever of stopping it now; it is encouraged in every sphere. Did we not gamble in connection with Sunday Schools? I remember when I was a small boy being given a little card for being a good boy and a regular attendant. Then later, I was given a bigger card because I had improved. All that was gambling in the sense that it

induced me to attend Sunday school with unfailing regularity. In connection with the charities consultations, there is always the possibility at the end of them of striking some luck. Again, why should we allow our money to go out of Western Australia to patronise consultations in other States? We have heard a lot about the inroads on our capital by the Eastern States, inroads on the trade of Western Australia. This, however, is through what I might term the stupidity of the people who run our railways; but I was referring to the consultations conducted in the other States. Tattersalls in Hobart got millions of money out of the people of Australia, and then Queensland came in, followed by New South Wales. Now we are told that Tasmania has gone to the pack. The Premier of Tasmania claimed that on account of the harm that was done to Tattersalls consultations he required assistance from the Commonwealth. Tattersalls in Tasmania was one of the main sources of revenue for that State; and the extraordinary thing about it was that those consultations were for a long time illegal, and it was impossible to post a letter addressed to Tattersalls in Hobart. Still, even though the consultations were illegal, the Commonwealth Government actually taxed the prizes that were won by individuals. It is all money that can be got for practically nothing, what we might call easy money, or money from home. No one minds gambling in this manner; but what an uproar there was when the unemployment tax of 4½d. was imposed last year, and again when it was increased this year to 9d. At Boulder one had to go about with an ice-pack on his head, in order to keep cool from the uproar and the manner in which politicians were described. Now the residents there, like those in every other part of the State are putting in their half crowns, and some of them are cutting up the dividends.

Hon. J. Cornell: I have not had my dividend yet.

Hon. C. B. WILLIAMS: The hon. member and I are the unlucky ones. The sweep merely amount to half a crown in and the winner takes the lot. Why object to that? No one complains. The latest sweep, as we know, closed with 132,000 subscribers. Does that not prove that there is a demand for this form of gambling? As for the validity



ing clause, if anything has been done that requires to be validated, I shall support it. I once sat on a sandalwood board representing the pullers, and received expenses for each sitting.

Hon. E. H. Harris: Ah!

Hon. C. B. WILLIAMS: I hope I am not giving anything away.

Hon. E. H. Harris: I refrained from telling members what you are now telling them.

Hon. C. B. WILLIAMS: That interjection is irrelevant. Still I do not mind saying that I received 30s. a day as expenses. I asked whether I was entitled to take that money. I did not regard it as an office of profit under the Crown; I was merely being paid my expenses to attend the board meetings. I would be sorry at this stage to learn that because I accepted those expenses I would have to resign my seat in Parliament.

Hon. E. H. Harris: Who is collecting the fee now?

Hon. C. B. WILLIAMS: A man named Geddes, I think. Mr. Clydesdale is in a similar position. I was assured at the time that I was not contravening the law.

Hon. E. H. Harris: You might now have Mr. Hughes looking out for you.

Hon. C. B. WILLIAMS: Mr. Hughes himself conducted sweeps for different people for a long time, and because he was prevented from continuing to do so, I suppose that is the reason for the action he has taken. Anyway, I think I can safely drop him. I am pleased to know that a majority of the members will endorse the clause in the Bill that will make Mr. Clydesdale's position right, if there is need to do so. Personally I think that any member of Parliament who accepts a seat on a board is somewhat of a mung, because he may incur displeasure by giving too much to one district, and not enough to another. He is making a rod for his own back. I will give the Bill my blessing as I gave it last year, and I am pleased to know that the public have faith in the existing commission, a fact that is proved by the manner in which the consultations have succeeded.

On motion by Hon. E. H. Gray, debate adjourned.

## RESOLUTION—STATE FORESTS.

### *To Revoke Dedication.*

Message from the Assembly received and read, requesting concurrence in the following resolution—

That the proposal for the partial revocation of State Forests Nos. 4, 14, 15, 22, 23, 24, 27, 29, 30, 33, 37, 38, 39, and 42 laid upon the Table of the Legislative Assembly by command of His Excellency the Lieut.-Governor on the 7th November, 1933, be carried out.

*House adjourned at 9.33 p.m.*

## Legislative Assembly.

*Wednesday, 8th November, 1933.*

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

## BILLS (2)—FIRST READING.

1. State Transport Co-ordination.  
Introduced by Minister for Railways.
2. Reserves.  
Introduced by Minister for Lands.

## MOTION—STATE FORESTS.

### *To Revoke Dedication.*

**THE MINISTER FOR FORESTS** (Hon. P. Collier—Boulder) [4.3]: I move—

That the proposal for the partial revocation of State Forests Nos. 4, 14, 15, 22, 23, 24, 27, 29, 30, 33, 37, 38, 39, and 42, laid on the Table of the Legislative Assembly by command of His Excellency the Lieutenant-Governor on 7th November, 1933, be carried out.