Legislative Assembly

Wednesday, the 21st November, 1973

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

BILLS (2): INTRODUCTION AND FIRST READING

1. Western Australian Marine Act Amendment Bill (No. 2).

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

2. Liquor Act Amendment Bill.

   Bill introduced, on motion by Mr. T. D. Evans (Attorney-General), and read a first time.

HEALTH ACT AMENDMENT BILL

Personal Explanation

MR. DAVIES (Victoria Park—Minister for Health) [2.20 p.m.]: I seek the indulgence of the House to make a correction to a small item in my second reading speech.

The SPEAKER: If there is a dissentient voice, leave will not be granted.

MR. O'NEIL (East Melville—Deputy Leader of the Opposition) [2.21 p.m.]: I do not desire to dissent, but it seems a little unusual for a Minister to request permission to make a correction to a second reading speech. If the Minister were to seek permission to make a personal explanation in respect of a matter raised in a second reading speech that would be fair enough, but I doubt very much whether one can correct a second reading speech in this way.

The SPEAKER: As I understand it, that is actually what the Minister is seeking. The explanation will be required in respect of a question on today's notice paper. As there is no dissentient voice, leave is granted.

MR. DAVIES (Victoria Park—Minister for Health) [2.22 p.m.]: When introducing a Bill to amend the Health Act on Thursday last I said, "A school dental therapist will not be required to register under the Dental Act and the provisions of that Act will not extend to acts of dentistry carried out by the therapist in the performance of her duty as a school dental therapist."

Members who have checked the Bill will notice that this statement is not correct. It should read: "A school dental therapist will not be required to register under the Dental Act, but the provisions of that Act will extend to acts of dentistry carried out by the therapist in the performance of her duty as a school dental therapist."

I thank the House for its indulgence.

QUESTIONS (30): ON NOTICE

1. MINING BILL

Further Consideration

Sir CHARLES COURT, to the Premier:

Is it intended to proceed further this session with the Mining Bill at present on the notice paper?

Mr. J. T. TONKIN replied:

No.

2. LAND

Acquisition: Clarification of Commonwealth Government's Decision

Sir CHARLES COURT, to the Premier:

In view of his answer to my question 2 of 19th September, 1973 arising from earlier questions referring to the Commonwealth Government's attitude to overseas interests buying Australian land and his advice that clarification had not been received, will he now advise—

(a) has he sought the clarification as promised on 21st March, 1973, and, if, so, when;

(b) has clarification been received and, if so, what is the nature of the clarification information received?

Mr. J. T. TONKIN replied:

(a) Yes, on the 27th September, 1973 and by telephone today.

(b) No. An acknowledgment only of my letter of 27th September was received, with a promise to write as soon as possible. In reply to a telephone call today, I was informed that the matter was still under review, but guidelines had not yet been established.

3. TRAFFIC ACCIDENTS

Walter Road

Mr. A. R. TONKIN, to the Minister representing the Minister for Police:

(1) How many pedestrian fatalities have occurred in Walter Road between the western end of Walter Crescent, Morley and Penzance Street, Eden Hill, over the past two years?

(2) How many injuries have been suffered by pedestrians in that area over the same period of time?

(3) Is there a "hazards committee" appointed to assist the Minister for Police or other Government departments?

(4) What is the composition of the hazards committee?

(5) What are its powers?

(6) Considering the extremely dangerous situation existing in Walter Road because of the lack of footpaths in the area referred to above, will the Minister examine the situation with a view to providing remedies urgently?

Mr. T. D. EVANS replied:

(1) 1972—Nil
1973—Two

(2) 1972—Nil
1973—One

(3) There is a special research and observation team to investigate dangerous obstructions or potential hazards within the metropolitan area.

(4) (a) Inspector of Police—Traffic Branch.

(b) Representative of Main Roads Department.

(c) Engineer of shire in which hazard is located.

(d) Where hazard involves a telephone box, poles, hoarding, bus stops or shelters, a representative from each of the authorities concerned.

(5) Advisory only.

(6) The committee will be requested to make an investigation in respect of the area to which the Member has drawn attention.

4. COTTESLOE SCHOOLS

Qualified Teachers

Mr. HUTCHINSON, to the Minister representing the Minister for Education:

(1) Will he advise whether all primary schools in the Cottesloe electorate will be staffed by fully trained and qualified teachers at the beginning of the 1974 school year?

(2) If not, will he advise which schools will lack trained and qualified teachers?

(3) Will he advise how many teachers on supply will be used in these schools?

Mr. T. D. EVANS replied:

(1) to (3) Staffing in all schools is subject to a major review because of the extra assistance available under the Karmel Report. The position is not yet sufficiently clear to provide the detailed information requested.

5. NEW YEAR'S EVE

Holiday

Mr. O'NEIL, to the Minister for Labour:

Since business and commercial interests as well as employee organisations are uncertain as to how the announced New Year's Eve holiday will be effected, will he make a clear statement as to whether the holiday will be declared either by proclamation or by a special Act of Parliament, and what action would need to be taken by business and commercial interests under either method of determining the holiday?

Mr. HARMAN replied:

Action is in hand to proclaim Monday, 31st December as a holiday under the Public and Bank Holidays Act. This will require shops (other than those exempted) to close. Because the proclamation of the holiday under the Public and Bank Holidays Act does not provide that workers shall be paid, the Government will introduce a Special Holidays Bill into Parliament tomorrow to provide that the 31st December shall be a paid holiday to all workers, whether under award or not.

6. DEVELOPMENT

Leighton Beach: New Project

Mr. HUTCHINSON, to the Minister for Works:

(1) Is he aware that a number of what appear to be building site pegs have been placed in the ground on the Leighton seafront between the Golden Fleece oil tanks and the Leighton surf life saving clubrooms?

(2) Will he explain what development is intended?

(3) Would it not be more desirable as far as aesthetics are concerned to avoid additional industrial buildup on this choice part of the ocean front?

Mr. JAMIESON replied:

(1) Yes.

(2) Construction of club house for the Port and Leighton Surf Clubs.

(3) No additional industrial construction is planned for this area.

7. DENTAL THERAPISTS

Membership of Statutory Board

Mr. MENSAROS, to the Premier:

(1) Is it the Government's policy and intention to separate Government employed professionals such as lawyers, architects, medical practioners, etc., from the control and membership of their respective statutory boards as it is intended to do with dental therapists?

(2) If not, could he please give reasons why such separation should take place only with dental therapists?

Mr. J. T. TONKIN replied:

(1) No.

(2) Dental therapists are not being separated from the Dental Board. They are being given the right to inspect school children under the Health Act. Similar provision is made in the Health Act for doctors, dentists and nurses.

8. POLICE

Allegations: Government Policy

Mr. MENSAROS, to the Premier:

(1) Is it his Government's policy to encourage Members of Parliament to participate in allegations against the goodwill, standing and respect for the Police Force?

(2) If not, will he use his influence to stop such allegations and channel any legitimate complaints to legal ways of investigation by the Commissioner of Police?

Mr. J. T. TONKIN replied:

(1) No, and the Member's imputation is resented.

(2) The Member is invited to cite instances, upon receipt of which appropriate action will be taken.

9. SCOUT ASSOCIATION AND Y.M.C.A.

Requests for Assistance

Mr. MENSAROS, to the Minister for Recreation:

(1) Has he received a submission made on 1st October, 1972 jointly by the Scout Association of Australia, Western Australian Branch, and the Y.M.C.A. Perth (Inc.) seeking assistance for maintaining the professional staff of both organisations?

(2) What action, if any, did he take towards the requests contained in this submission?

(3) Is it the Government's policy to foster new Commonwealth sponsored framework organisations for youth recreational and outside school educational purposes instead of using available moneys to support well proven long standing voluntary organisations such as Scouts, Y.M.C.A., etc., which enjoy the voluntary support and experience of many an experienced and respected community-minded citizen?

Mr. T. D. EVANS replied:

(1) Yes.

(2) The Community Recreation Council has met on three separate occasions with representatives of the Scout Association and Y.M.C.A. Perth, Inc. The council is well aware of the problems facing voluntary youth and sporting organisations and points out that the above two organisations are not the only bodies serving youth on a voluntary basis in this State.

This whole question of financial assistance to voluntary youth and sports groups is presently being determined by the council.

(3) It is the Government's policy to help and encourage as many people as possible, of all ages, to enjoy and enrich their free time recreational pursuits. All youth organisations are eligible for assistance and allocations will be made on the merits of each application in relation to the total picture.

10. SPORTING AND RECREATIONAL PROJECTS

Government Grants

Mr. MENSAROS, to the Minister for Recreation:

(1) Adverting to his reply to question 12 on 14th November, 1973, could he please explain—

(a) what he meant under "successful submissions", especially in view of the fact that some of the listed places did not make any submission but were approached by his department;

(b) how could he list administrative headquarters at Perry Lakes when so far no agreement has been reached regarding lease and/or transfer of land (excise for the Crown) with the Perth City Council?

(2) With how many of the owners of the listed projects has definite agreement been reached regarding lease, transfer of land, etc?

(3) Is it not a fact that owners of land connected with these projects, whether individuals or municipal councils, are perfectly entitled to arrive at their own decision, considering the interest of their community and ratepayers irrespective of the Federal Minister's wishes?

Mr. T. D. EVANS replied:

(1) (a) By "Successful submissions" is meant those projects to which the Australian Government has agreed to give financial support. As explained in answer to a question in this House yesterday, all groups and local authorities were requested to submit applications to the Community Recreation Council. The 11 projects submitted to the Australian Government were those received that met the

criterion outlined on 14th November. Of the 11 projects submitted, 10 were accepted by the Australian Government.

(b) It was necessary to have some assurance of Australian Government support before negotiations with the Perth City Council could be proceeded with in good faith.

(2) In all cases, with the exception of Perry Lakes, the grants are being made by the Australian Government to recreational projects being developed by local governing authorities.

(3) Yes.

11. FRIENDLY SOCIETIES PHARMACIES

Unqualified Dispensary Assistants

Dr. DADOUR, to the Minister for Health:

What is the number of unqualified dispensary assistants per qualified pharmacist employed by the friendly society pharmacies?

Mr. DAVIES replied:

Information not available in the department.

12. TEACHERS' TRAINING COLLEGES

Librarians

Dr. DADOUR, to the Minister representing the Minister for Education:

(1) (a) Is it intended that librarians will be included as academic staff of teachers' colleges;

(b) If "No" why not?

(2) When will the working conditions for librarians be prepared if they are not to be included as academic staff of teachers' colleges?

Mr. T. D. EVANS replied:

(1) (a) No.

(b) Academic staff is defined by the council under subsection (3) of section 4 of the Act, as—

"Those full time and part time staff directly engaged to teach or organise the teaching of courses within the college."

Librarians do not come under this definition.

(2) Until such time as decided to the contrary, librarians have the same conditions as the Public Service as specified in subsection (2) of section 51 of the Act.

13. LOCAL GOVERNMENT

Outer Metropolitan Regional Group: Grants Commission

Mr. THOMPSON, to the Minister representing the Minister for Local Government:

(1) Has he received a submission from a group of nine outer metropolitan area local authorities, including Kalamunda, Mundaring and Armadale-Kelmscott, to establish that group as a region for the purpose of access to the Commonwealth Grants Commission?

(2) If he has, will he advise if he is prepared to recognise these councils as a regional group and make the appropriate submission to the Federal Minister?

(3) If he is not prepared to accept the submission of these councils and give them the necessary support, will he state why?

Mr. HARMAN replied:

(1) Yes.

(2) and (3) Because of the urgency of arranging procedures, and in the limited time available, I have agreed to accept the regions proposed by the Department of Urban and Regional Development, but for the first year only. Submissions for variation of these regions will be considered early in 1974. It is emphasised that individual councils will not be disadvantaged by inclusion in any particular regional organisation.

14. LESMURDIE SCHOOL

Additions, Classrooms, and Enrolments

Mr. THOMPSON, to the Minister representing the Minister for Education:

(1) What is the specified completion date of major additions to Lesmurdie primary school?

(2) Is the contract expected to be completed within the specified time; if not, what is the expected date of completion?

(3) How many pupils are now attending this school?

(4) How many classrooms exist at the school and of these how many are demountable rooms?

(5) How many children are accommodated in each of the rooms at the school?

(6) What is the estimated enrolment at this school for the start of next year?

(7) If the new rooms are not to be available for the start of next year, what provision is he making to house the pupils until the additions are complete?

Mr. T. D. EVANS replied:

(1) 15th March, 1974.

(2) The contract is now expected to be completed by 5th April, 1974. However, the contractor is concentrating on having the classroom block completed as close to the commencement of the 1974 school year as possible.

(3) 482.

(4) There are 13 classrooms at the school, including four demountable classrooms.

(5) The following number of children are accommodated in each of the above rooms—

35, 37, 39, 43, 35, 35, 36, 33, 40, 34, 41, 34 and 40.

(6) Approximately 510.

(7) It is hoped that the estimated enrolments for the start of the 1974 school year will be able to be accommodated in the existing buildings until the new additions are ready. However, the situation will be reviewed on the first day of school in 1974.

15. PHYSICALLY HANDICAPPED PERSONS

Care

Mr. THOMPSON, to the Minister for Health:

(1) What provision is made to accommodate physically handicapped persons after their parents are no longer able to care for them, either because the parents pass on or become infirm, or because the handicapped person is physically too big to be handled in the home?

(2) Will he give consideration to establishing a hostel, designed specifically to cater for such persons?

(3) What employment opportunities are available to physically handicapped persons?

(4) Will he intensify efforts to find suitable employment and in particular give serious consideration to combining workshops adjacent to hostel accommodation mentioned in (2) above?

Mr. DAVIES replied:

(1) Hostels provided by charitable organisations, Sunset and Mt. Henry Homes, Home of Peace and similar institutions.

(2) Financial assistance is given by the Australian Government to charitable organisations to build hostels. The State Government assists with furnishing costs.

(3) There are a number of sheltered workshops and where possible handicapped persons are placed in suitable jobs in industry.

(4) Efforts will continue to be made to improve conditions for the handicapped.

16. EDUCATION

Physically Handicapped Children

Mr. THOMPSON, to the Minister representing the Minister for Education:

(1) Are there special classes conducted to cater for physically handicapped children?

(2) If so,

(a) how many such classes exist;

(b) where are they situated;

(c) how many children are in each class?

(3) Which authority is responsible for provision of the classrooms?

(4) Are all of the classrooms and other teaching facilities of a satisfactory standard?

(5) If any of the classrooms are not of the required standard, what steps are being taken to rectify the position?

(6) What is the maximum level of education available to those who attend such special classes?

Mr. T. D. EVANS replied:

(1) to (3) Yes.

Cottesloe junior primary school for deaf.

58 children in attendance.

Classrooms provided by Education Department.

W.A. School for Deaf Children, Mosman Park.

57 children in attendance.

Classrooms provided by Education Department.

Primary partially hearing classes. Cottesloe primary school—one class of 6 children.

Claremont demonstration school—2 classes, 11 children in total.

The Education Department provides classrooms.

Swanbourne senior high school secondary.

Partially hearing class—one class of 18 children.

Classroom provided by Education Department.

The Speech and Hearing Centre for Children, Kings Park Road and Thomas Street.

45 children.

Classrooms provided by Speech and Hearing Centre.

Sutherland Street primary school. 2 blind classes, 16 children.

Classrooms provided by Education Department.

Thomas Street school, Subiaco.

2 classes for primary partially sighted—31 children.

Classes provided by Education Department.

High school partially sighted children are integrated into normal classrooms.

Yaringa School, Mosman Park, for children with muscular dystrophy or orthopaedic defects, 58 children.

Building owned by Crippled Children's Society and rented by the Education Department who supply staff, and equipment.

Lady Lawley Cottage school for children with physical disabilities, Mosman Park, 23 children.

Building owned by Red Cross and Education Department pays peppercorn rental.

Sir James Mitchell School, Mount Lawley, caters for cerebral palsied children, 210 children.

School building is part of a day centre owned and maintained by the Spastic Welfare Association.

The Melville Rehabilitation Centre, South Street, O'Connor for epileptic children and diverse disabilities, 17 children.

Building provided by the Australian Government.

Hospital schools:

(i) Princess Margaret Hospital —67 children

(ii) Fremantle Hospital—17 children

(iii) Shenton Park Hospital—20 children

Each of these schools is housed in classrooms provided by the Hospital concerned.

Boordaak School—3 travelling teachers for children who are convalescing at home or in hospitals not provided with hospital schools.

(4) and (5) Classrooms normally vary according to the age of the institution. The Education Department is planning to utilise Australian Government funds for necessary upgradings.

(6) The total range of education available is presented in special schools and in some instances students have achieved matriculation.

17. WALLISTON SCHOOL

Sports Ground: Grassing

Mr. THOMPSON, to the Minister representing the Minister for Education:

(1) Is he aware that an experiment in grass planting at the Walliston primary school appears to have failed, despite a superb effort by the school gardener?

(2) Will he arrange for representatives of his department, the public Works Department and the grassing contractor, to meet at the school and determine an alternative method to establish the desired lawn surface?

(3) If it is decided to hold such a meeting, will he please advise the proposed date and time?

Mr. T. D. EVANS replied:

(1) Yes.

(2) and (3) An "on site" conference between the contractors, the headmaster, and representatives of the Agricultural Department and the Public Works Department is to be held at a mutually convenient time on Thursday, 22nd November, 1973, to discuss further action.

18. TOWN PLANNING

Lesmurdie: Hotel Site

Mr. THOMPSON, to the Minister for Town Planning:

(1) Further to the reply he gave to a question without notice on Thursday, 15th November (question 2), will he state the number of local residents who requested his giving preliminary approval for a hotel to be developed in Lesmurdie?

(2) In what form did the residents make their request?

(3) Will he table the file dealing with this subject?

Mr. DAVIES replied:

(1) and (2) Representations were both verbal and written and no accurate record is kept of the names of persons. The file records several letters, including one from the Kalamunda Shire Council. It is essential in dealng with matters of this nature that the public be given the greatest opportunity to register their support for or against. I must also endeavour to keep an open mind and not prejudge any application. In each case the objectors or supporters have been told, either verbally or in writing, that the scheme is being advertised and that they should follow the proper channels by lodging with the council their submission in support or in opposition.

(3) As the file is one in regular use, I can only afford to table it until the end of this week's sitting. The file can be made available for further viewing in the Town Planning office by arrangement with the Deputy Town Planning Commissioner.

We cannot afford to have them lying around indefinitely while members thumb through them.

The file was tabled until Friday, the 23rd November, 1973 (see paper No. 493).

19. DEVELOPMENT

Manjimup Canning Co-operative: Finance and Production

Mr. STEPHENS, to the Minister for Development and Decentralisation:

(1) What is the total amount the Government has guaranteed the Manjimup Canning Co-operative?

(2) What acreage of peaches, plums and apricots planted in 1973 were pledged to the cannery?

(3) What planting pledges have been made for all fruit and vegetables for the 1974, 1975 and 1976 years?

(4) Is the cannery requirement, that 10% of grower returns be deducted in shares for each of the following 10 years, acting as a deterrent to potential suppliers?

(5) Would not a scheme similar to that in existence in the Eastern States where growers supplying a cannery must hold a stipulated number of shares in order to deliver selected varieties and quantities of fruit and/or vegetables act as a greater incentive towards new plantings and grower involvement in this important and much needed State industry?

Mr. J. T. Tonkin (for Mr. TAYLOR) replied:

(1) $955,000 term loan finance.

$435,000 working capital finance.

(2) Peaches—25¼ acres.

Plums—Nil.

Apricots—Nil.

Pears—29 acres.

(3) 1974—Pledges made to date are as under but negotiations are still in progress—

Peaches—21½ acres

Plums—Nil

Apricots—Nil

Pears—2 acres,

depending on availability of young trees.

1975-76 not yet decided.

(4) There is no evidence that this is so.

(5) The cannery management is aware of this scheme and is actively studying its application in Western Australia but it is not considered necessary at this stage.

20. POINT PERON RESERVE

Marina

Mr. RUSHTON, to the Minister for Recreation:

(1) Referring to my question 33 on 15th November, relating to the siting of an oceanarium at Point Peron as proposed by Marineland of Australia, will he please advise me of the objections held by the Community Recreation Council to the siting of the oceanarium on the location nominated at Point Peron?

(2) To what use does the Community Recreation Council intend to put the vacant land on which Marineland of Australia wish to build their oceanarium?

Mr. T. D. EVANS replied:

(1) The Community Recreation Council is firmly convinced of the worthwhileness of the scheme at Point Peron which provides thousands of people of all ages with seaside holidays each year and which encourages the general public to enjoy this recreational facility in keeping with the total scheme.

(2) The small remaining parcel of land, and half the area of the lease which has been recently lost to causeway and port development, is required to further develop the existing holiday scheme.

This is in accord with the intention of the original Commonwealth lease.

21. GRASSHOPPERS

North-eastern Wheatbelt

Mr. McPHARLIN, to the Minister for Agriculture:

(1) Have any reports been received by the Department of Agriculture that grasshoppers could move in alarming numbers in the north-eastern wheatbelt?

(2) Has the department had a survey done in these areas by a competent officer?

(3) If so, and a report has been received, does it indicate that there is no cause for alarm?

Mr. H. D. EVANS replied:

(1) No. A few localised pockets of infestation of grasshoppers have been treated during the last few

weeks in the north-eastern wheatbelt. However, the areas treated have been very limited and the danger period is now passed.

(2) Routine surveys have been carried out by regional vermin control officers.

(3) Reports received indicate no cause for alarm.

22. FROZEN CHICKENS

Shortage

Mr. McPHARLIN, to the Minister for Agriculture:

(1) Why is there a severe shortage of frozen chickens for purchase by country hotels and business houses?

(2) Will the shortage be of a short or long duration?

(3) What percentage of the total sales in Western Australia of frozen chickens was purchased from the Eastern States during the years from 1st July to 30th June in 1970-71, 1971-72 and 1972-73?

(4) Is it anticipated that local production will increase in the near future?

Mr. H. D. EVANS replied:

(1) Inquiries reveal there is at present some shortage which is considered to have occurred as a result of general strong demand by consumers.

(2) Adequate supplies are expected to become available by January, 1974.

(3) Importations of frozen chickens are calculated to be not more than 0.33% of total W.A. production for 1970-71; 1.59% for 1971-72; and 1.05% for 1972-73.

(4) Yes.

23. WHEAT

Production Costs and Stabilization Plan

Mr. McPHARLIN, to the Minister for Agriculture:

(1) Has a survey been completed for the year 1972-73 by the Bureau of Agricultural Economics into the cost of goods and services used in the production of wheat?

(2) If so, what is the percentage increase in costs that has been disclosed?

(3) Can the increased costs be attributed to specific areas of demands such as wages?

(4) Has it not been proved that an increase in the price of wheat should not result in an increase in the price of bread?

(5) Has any suggestion been made at Agricultural Council level that the proposed new wheat stabilization plan should be of less than a five-year term?

(6) Has any suggestion been made at any of these meetings to reduce the effective operating life of the Australian Wheat Board to less than seven years?

(7) Has any suggestion been made to alter the composition of the Australian Wheat Board, particularly in regard to grower representation?

(8) Has the Agricultural Council agreed that the guaranteed price for the commencement of the new wheat stabilization plan should reflect the level of price expected to prevail over the early years of the new plan?

(9) Has the Agricultural Council agreed that sufficient incentives must be provided within the new wheat stabilization plan to prevent growers transferring their resources into other profitable industries?

(10) What is the guaranteed price of wheat being asked for by the Australian Wheatgrowers Federation?

(11) What is the quantity of export wheat suggested by the Australian Wheatgrowers Federation in the proposed new plan?

(12) Has the Agricultural Council agreed that the cost of shipment of wheat to Fremantle should be built into the home consumption price on an annual basis?

(13) Has the Agricultural Council agreed that a first advance level of $1.20 per bushel should be a minimum as an incentive to keep producers in the industry?

(14) What is the suggested home consumption price of wheat submitted by the Australian Wheatgrowers Federation?

(15) What action is being taken by the Agricultural Council in regard to unauthorised dealings in wheat, with particular reference to interstate trading?

(16) What is the recommended minimum carryover stock levels to be held in Australia?

Mr. H. D. EVANS replied:

(1) to (4) It is understood that a survey has been completed. The report has not yet been made

available and no comment can therefore be made on the matters to which reference is made.
It is calculated that the price of wheat would have to rise by about 35c per bushel to cause a 1c increase in the cost of a 2 lb. loaf of bread.

(5) to (9) A special meeting of Agricultural Council will be held in December to consider these and related matters.

(10) and (11) $2 per bushel, in bulk, on F.O.B. basis for 250 million bushels exported.

(12), (13) and (15) The board's term and composition is determined by Commonwealth legislation.

(14) Approximately $1.93 per bushel, f.o.r. at ports, for all home consumed wheat for 1973-74.

(16) The Australian Wheatgrowers Federation has recommended 172 million bushels.

24. HIGH SCHOOLS

Vasse Electorate: Insurance Cover

Mr. BLAIKIE, to the Minister for Works:

(1) Would he advise the individual amount of insurance cover in each category on high schools situated Bunbury, Busselton, Albany, Manjimup and Margaret River for—
(a) buildings;
(b) fittings,
as at 31st December, 1972?

(2) Has any insurance cover on these buildings been either increased or decreased since that date and, if so, would he give reasons?

Mr. JAMIESON replied:

(1) On 8th November, question 19, the Member was informed regarding the insurance arrangements for the Albany High School. The high schools at Bunbury, Busselton, Manjimup and Margaret River are covered against damage by fire by a special Treasury insurance fund. There are no specific financial limitations.

(2) No.

25. FRIENDLY SOCIETIES PHARMACIES

Fire Brigades: Contributions

Mr. HUTCHINSON, to the Minister representing the Chief Secretary:

(1) Is it a fact that all members of the W.A. Fire Brigades Union and Association are compelled to contribute regular sums of money from their wages to cover subscription to a friendly society pharmacy?

(2) If so, has he approved this doubtful practice?

(3) Has he any intention of extending this practice into other unions?

(4) If so, will he explain why?

Mr. HARMAN replied:

(1) The employer, the W.A. Fire Brigades Board, is not involved. It is understood the unions out of their funds enrolled all of their members in a friendly society pharmacy without imposing additional levies on its members.

(2) to (4) Covered by (1).

26. MINERAL SANDS

Eneabba-Gingin

Sir DAVID BRAND, to the Minister for Mines:

(1) What companies are actually mining mineral sands in the area from Eneabba to Gingin?

(2) What progress has been reached in each case regarding production?

Mr. MAY replied:

(1) Allied Eneabba Pty. Ltd.,
Jennings Mining Ltd.,
West Coast Rutile.

(2) Allied Eneabba and West Coast Rutile are operating pilot scale plants to establish the most efficient treatment methods with a view to erecting large scale plants.
Jennings Mining Ltd. has new plants at Eneabba and Narngulu and operations are in the initial shake-down stage.

27. WATER SUPPLIES

Bores: Winchester-Eneabba Road

Sir DAVID BRAND, to the Minister for Mines:

(1) What is the reason for a series of bores being put down at various intervals along the Winchester-Eneabba Road?

(2) If the object is to prove the existence of underground water what plans has the department for its use in the district?

Mr. MAY replied:

(1) These bores have been drilled to provide hydrological and geological information for a long term assessment of the underground water resources of the Perth sedimentary basin. This assessment is part of the programme of work being undertaken by the State with the financial assistance of the Commonwealth under the States Grants (Water Resources) Act.

(2) Underground water supplies are already being drawn on for Eneabba township and the information provided by the present bores would facilitate the design of any scheme for augmentation.

28. COMMUNITY HEALTH CENTRES

Tenancy Arrangements

Mr. BLAIKIE, to the Minister for Health:

(1) Is it the Government's intention to proceed with building of community health centres without having satisfactory tenancy agreements concluded before calling tenders?

(2) Would he advise the names of those persons with whom tenancy arrangements have been concluded at—

(a) Busselton;

(b) Mandurah,

proposed community health centres?

(3) Would he advise those Government services that are to be tenants in the proposed centres?

Mr. DAVIES replied:

(1) It is impractical to conclude tenancy agreements before a contract is let for the building. The provision of health centres is a relatively new concept.

(2) My answer to the Member's question 13 of 20th November, 1973, clearly indicated that tenancy negotiations have not been completed.

(3) Appropriate arrangements will be made after a contract is let for the building.

29. DAIRYING

Withdrawal of Bounty

Mr. BLAIKIE, to the Minister for Agriculture:

(1) As the action of the Commonwealth Government to withdraw dairy bounty will have severe repercussions to the dairy industry in this State, will he advise what alternative assistance, as promised, has been formulated for Western Australia and when can it be expected that an announcement, etc., will be made?

(2) Since the decision was announced this year and butterfat producers are aware that they will be subject to a further price erosion of between 2 and 3 cents per lb. because of the bounty decision, does he agree that an immediate announcement of alternative assistance is imperative if the producers are to continue in the industry?

Mr. H. D. EVANS replied:

(1) The effects of the withdrawal of the bounty are being studied and a submission will be made to the Commonwealth Government in the near future.

(2) Reconstruction assistance at current rates would not in itself be sufficient to offset the effects of bounty removal and increasing farm costs. If the producers are to continue in the industry, the industry requires a reduction of the net contribution by the State to the equalisation scheme and such measures as might be initiated by the Dairy Industry Authority to effect economies throughout the industry.

Although there is a need for the Commonwealth to indicate the terms of assistance it is also essential that the Equalisation Scheme be adjusted to improve returns to dairy farmers.

30. TRADE UNIONS

Shop Stewards Schools

Mr. McPHARLIN, to the Minister for Labour:

(1) Has the Government given financial assistance to the schools for shop stewards under the direction of the Trades and Labor Council?

(2) If so—

(a) how many schools have been organised from 31st March, 1971 until 31st October, 1973?

(b) how much money has been allocated to each school over the same period of time;

(c) what qualifications are required by members of the education committee of the Trades and Labor Council for applicants to become education officers;

(d) who are the education officers presently employed in this capacity;

(e) are the tutors given specific instructions on how to educate the shop stewards;

(f) do they have the ability and knowledge to present a company's economic position clearly and fairly;

(g) are the tutors directed to espouse an ideological and class-hatred conflict;

(h) are the shop stewards recruited from within Western Australia;

(i) if not, from where do they come?

Mr. HARMAN replied:

(1) The Government has provided financial assistance to both the Trades and Labor Council and the Employers' Federation for the purpose of the education of shop stewards and foremen and supervisors in industrial relations on the following scale—

Trades and Labor Council	Employers' Federation
1971-72—$4,531	1971-72—Nil
1972-73—$7,911	1972-73—$5,885
1973-74—A total of $13,550 has been provided in the Estimates for the scheme this year.	

(2) As this information was not available from my department, the Trades and Labor Council was requested to provide the information.

(a) Thirteen weekend residential schools for shop stewards or convenors (senior shop stewards).

Shop stewards are also sometimes included in special schools such as the following—

5 day residential summer schools—one in 1971 and one in 1972.

Course on communications and the media—October 1971.

School on Industrial Magistrates Court proceedings, June 1971.

Seminar on the arts, October 1972.

School for organisers and secretaries, August 1973.

Series of tutorials on research techniques, October/November 1973.

Bursaries for past students of T.L.C. schools to attend university in 1973.

(b) The following grants have been received since March 1971—

	$
April 1972	2,943.73
July 1972	1,000.00
Jan. 1973	1,600.00
April 1973	3,657.96
July 1973	2,653.35
	$11,855.04

Expenditure on schools etc.

5 day residential summer schools—

	$
1971	2,943.73
1972	3,657.96
	$6,601.69
Bursaries for students attending university	1,000.00
Air fares Instructors for Paraburdoo course	1,000.00
18 schools at an average unit cost of approximately $180.00	3,253.35
	$11,855.04

Claims for this financial year are currently being considered by the Department of Labour.

(c) The following is an extract from the information sheet for applicants—

There are no specific qualifications for the position, a formal education background will help but other qualities may offset this.

The essentials are, idealism in the sense that the applicant desires to see the growth of a better educated trade union movement to enable it to carry out its functions and an ability to see the education problem clearly and to be able to work effectively and rationally towards solving such problems. It is expected that applicants will have a background which is either primarily union/industral relations oriented or education oriented. Formal education qualifications will be of assistance but not if they are the only qualifications.

(d) Michael Beahan, B.A., B.Ed., currently studying for higher degree—appointed May 1973.

(e) No.

(f) All tutors are fully qualified in the fields in which they are asked to tutor among those employed have been the following:—

Dr. N. Dufty, Dean of Commerce and Social Science W.A. Institute of Technology.

Mr. D. McBeath, Lecturer in Applied Economics W.A. Institute of Technology.

Mr. R. Harding, Assoc. Professor in Law, W.A. University.

Mr. C. Carr, formerly of W.A. Institute of Technology, now principal Lecturer in Administration, Canberra College of Advanced Education.

Professor Jayasuriya, Assoc. Professor of Social Work, W.A. University.

Mr. K. Hince, Senior Lecturer in Economics, Melbourne University.

Dr. D. Yerbury, Lecturer in Industrial Relations, Monash University.

Mr. T. Roper, Lecturer in Education La Trobe University.

Mr. W. Latter, Junior Vice President, T.L.C.

Mr. J. Coleman, Secretary, T.L.C.

Mr. D. Hanlon, Industrial Officer, T.L.C.

Mr. M. Beahan, Education Officer, T.L.C.

Mr. P. Matthews, Education Officer, A.C.T.U.

Mr. C. McDonald, Education Officer, W.E.A., South Australia.

Mr. J. Hutson, Research Officer, A.M.W.U. Research Centre, Sydney.

Mr. R. McMullan, Secretary Gaol Officers' Union.

Mr. O. Salmon, Organiser, Hospital Employees' Union.

The W.A. Industrial Commission has provided a Commissioner to every Shop Steward School.

(g) No.

(h) Yes.

(i) N/A.

QUESTIONS (10): WITHOUT NOTICE

1. AMALGAMATED METAL WORKERS' UNION

Comments of Organiser: Press Report

Sir CHARLES COURT, to the Premier:

(1) (a) Has the Government taken action to check the accuracy of the report in today's edition of *The West Australian* of the remarks "the time was right to begin 'knocking off' employers in an effort to gain increased concessions", reported to have been made by an A.M.W.U. organiser, Mr. A. J. Marks, at a stop-work meeting yesterday?

(b) If not, why has no action been taken?

(c) If action has been taken, what was the result?

(d) What is the Government's understanding of the expression, "knocking off employers" in the context used by Mr. Marks?

(2) What is the Government policy—

(a) Where union officials incite breaches of the law?

(b) Where union officials advise union members to use violence and otherwise cause serious industrial dislocation?

Mr. J. T. TONKIN replied:

(1) This question is clearly inadmissible (See Erskine May, 18th edition, page 325, paragraph 7 (1) (f)).

Mr. O'Neil: Ducking for cover!

Mr. O'Connor: The Speaker has seen it.

Mr. J. T. TONKIN: I beg your pardon! This is a question without notice. What chance did the Speaker have to see it?

Mr. O'Connor: He heard it.

Mr. J. T. TONKIN: Let the honourable member look up the Standing Orders which he quoted before. That is my answer, and the honourable member can look up Erskine May. Continuing with my answer—

(2) In all cases, whether or not it is a union member, a member of Parliament of either Government or Opposition, or any other person, it is the Government's policy to require obedience of the law.

Point of Order

Sir CHARLES COURT: On a point of order, Mr. Speaker.

The SPEAKER: What is the point of order?

Sir CHARLES COURT: The point of order is that the Premier has pleaded or quoted Erskine May as his authority for not having to answer part (1) of the question. Is it possible for me to ask you whether you can give a ruling on whether or not the question should be answered, because we do not agree with the proposition put forward by the Premier?

The SPEAKER: The answer to the Leader of the Opposition is that no Minister is bound to answer any question.

Sir Charles Court: This Government does not answer any question that causes it embarrassment. This question is a matter of great public interest and of great public concern.

The SPEAKER: Order! Members will keep order. The member for Darling Range.

Sir Charles Court: It is of tremendous public interest. Has not the Premier been around town to sense the reaction?

2. JOHN FORREST NATIONAL PARK

Restaurant: Toilets

Mr. THOMPSON: to the Minister for Lands:

(1) Is he aware that the lessee of the John Forrest National Park tearooms/restaurant is to close the facility from tomorrow onwards because he is unable to keep staff, due to the unsatisfactory working conditions, principally the lack of adequate toilets?

(2) Is it a fact that, although some modifications are proposed to the present facility to correct breaches of health by-laws, a factories and shops order that separate toilets be provided for male and female employees in accordance with Shops and Warehouses (Health and Safety) Regulations is still being ignored, and that no provision is made in the proposed works schedule to correct this breach of regulation?

(3) Will he state what action he will take to provide for the needs of the thousands of tourists who visit the park after the tearooms/restaurant closes tomorrow?

Mr. H. D. EVANS replied:

(1) I am aware, as from 2.00 p.m. today, when I received a copy of a message that was phoned to my office, together with a copy of the question asked by the member for Darling Range.

(2) My understanding is that, firstly, the National Parks Board requested the Public Works Department to arrange for renovations to be carried out to meet all the health laws and the relevant by-laws. The Public Works Department arranged with a contractor to undertake this work. It selected a contractor and awarded him the contract. The contractor has been endeavouring to negotiate with the lessee in regard to a time when he can commence the work.

Mr. A. A. Lewis: Would it be a shortage of materials that is holding him up?

Mr. J. T. Tonkin: No, a shortage of labour.

Mr. H. D. EVANS: If the member for Blackwood would care to supplement my answer at a later stage he can do so, but I am supplying this answer in my own way.

(3) On the inadequate information at present in my possession it would be difficult to say. Inquiries, and verification of the actual facts, are in train at the moment. For example, it is not known whether the proposed closure is for one day, or one week; whether any infringement of by-laws is evident; or whether any infringement of lease conditions is evident.

These are matters not known to me at this time. I suggest to the honourable member that if he wants a full and complete up-to-date answer he should put his question on the notice paper.

3. JOHN FORREST NATIONAL PARK

Restaurant: Toilets

Mr. THOMPSON, to the Minister for Lands:

As I understand the reply, the Minister indicated that all work which was required to comply with the health regulations and the factories and shops regulations has been included in the contract. Will he not acknowledge that, in fact, no toilets were included in the proposed work, and that is the major objection?

The SPEAKER: The Minister for Lands has requested that the question be placed on the notice paper.

4. KANGAROOS

Skins and Products: Ban on Export

Mr. W. G. YOUNG, to the Minister for Fisheries and Fauna:

As the Federal Minister has rejected the request to remove the ban on the export of kangaroo skins or products on the grounds that "no State has yet submitted full details of its programme as recommended in the working party's report and he would not recommend a lifting of the ban until the States met this recommendation", would the Minister immediately set out this State's case in the terms required so that the ban can be lifted?

Mr. Davies (for Mr. BICKERTON) replied:

I have been sent a message which indicates that the Minister for Fisheries and Fauna has asked that the question be put on the

notice paper. He appreciates that adequate notice of this question has been given, but unfortunately he is indisposed today. He has arranged for the submission of reports relating to kangaroos, and he will be able to table these tomorrow afternoon.

5. FRIENDLY SOCIETIES PHARMACIES

Increase in Number

Mr. HUTCHINSON, to the Minister for Health:

(1) In view of the lateness of the second part of the present session of Parliament does he still intend to introduce legislation which will provide for additional friendly societies pharmacies?

(2) If so, will he table all files relating to this matter?

Mr. DAVIES replied:

(1) Yes.

(2) The matter of tabling files will have to be considered by me. I cannot see any reason why they should not be tabled, but a number of files are involved. I shall check to see whether they can be conveniently tabled or made available to the honourable member for inspection.

6. DEVELOPMENT

Businesses Assisted by Government

Mr. BATEMAN, to the Minister for Development and Decentralisation:

(1) In view of the continual claims by the Opposition that the Government does not assist private enterprise, will he give a list of the businesses assisted by Government guarantees?

(2) Does he agree that by giving such assistance the Government has helped to create employment, and thus reduced the serious employment problem which faced the Labor Government when it took office?

Mr. J. T. Tonkin (for Mr. TAYLOR) replied:

I would ask that this question be postponed until a later stage.

Mr. O'Neil: The Minister is not allowed to give an expression of opinion. The question is out of order.

7. INTRASTATE AIR TRANSPORT

TAA

Sir CHARLES COURT, to the Premier:

(1) In view of the inadequacy of information supplied to Parliament by the Minister who introduced the Commonwealth Powers (Air Transport) Bill, and in view of the weaknesses in the information supplied to the Opposition by TAA in respect of its desired operations in Western Australia, will he give instructions for the information available to the Government to be reviewed and presented with comments to Parliament before consideration of the Bill proceeds further?

(2) As part of this review, will he also make available to Parliament an analysis of how the TAA proposals will be effectively enforceable both in law and in practice, having regard for the Bill before the Western Australian Parliament, Commonwealth legislation and, in particular, the provisions of the two-airlines operating agreement and legislation?

(3) What firm undertakings has the Government from D.C.A. and/or the Commonwealth Government for upgrading of airstrips to take DC9 aircraft with required navigational aids and on what timetable?

Mr. J. T. TONKIN replied:

(1) Neither the information supplied by the Minister for Transport to Parliament, nor that supplied by Trans-Australia Airlines to the Opposition, is inadequate.

Sir Charles Court: You have not read the question.

Mr. O'Neil: The Premier has given an expression of opinion.

Sir Charles Court: Has the Premier read the Minister's speech?

Mr. J. T. TONKIN: My opinion is as good as that of the Deputy Leader of the Opposition.

Mr. O'Neil: These are facts.

Mr. J. T. TONKIN: If members opposite ask questions they have to accept the answers, whether or not they are palatable.

Sir Charles Court: As long as they are factual.

Mr. O'Neil: We do not mind how many you answer like this.

Mr. J. T. TONKIN: This will be so full of facts that the Leader of the Opposition will be sorry he asked it.

Sir David Brand: That will be strange.

The SPEAKER: Order!

Mr. J. T. TONKIN: To continue—

TAA's intentions have been made quite clear. Initially, it is to operate up to 3½ Perth-Darwin services a week, stopping at Port Hedland, Broome, Derby, and Kununurra,

using DC9 aircraft. It has provided complete timetables and fare schedules. It has, in addition, publicly given a number of guarantees that will ensure there is no reduction in the totality of air services in the northern part of the State, irrespective of the reaction of Ansett Transport Industries.

Sir Charles Court: And some of them are incapable of achievement.

Mr. J. T. TONKIN: To continue—

(2) The operation of the Transport Commission Act will remain unimpaired with respect to all other aviation operators by the passage of the Bill now before Parliament. Whilst the Bill now before Parliament gives me the ultimate power over TAA, we have all the assurances necessary as to its compliance with our requirements from the Australian Government.

Sir Charles Court: Heavens!

Mr. O'Neil: The three-card trick.

Mr. J. T. TONKIN: To continue—

I quote in full a letter received by the Minister for Transport, from the Australian Minister for Transport, dated the 16th November, 1973. This letter was received after he delivered his second reading speech, and it reads—

Dear Mr. Dolan,

During a recent discussion which an officer of the Department of Civil Aviation had with the Western Australian Commissioner of Transport, it was mentioned that your Government was concerned about the possibility that independent action by the Australian Government in relation to intrastate airline operations might be a result of the commencement of operations in Western Australia by Trans-Australia Airlines.

On behalf of the Australian Government, I am able to assure you that, following the entry of Trans-Australia Airlines to your State, no action in relation to intrastate licences, fares, freights, timetables, frequencies or stopping places will be taken without full prior consultation having taken place between officers of my Department and appropriate State authorities.

Yours sincerely,
(Sgnd.) C. K. Jones.

Sir Charles Court: That does not mean anything.

Mr. O'Neil: Consultations mean nothing.

Sir Charles Court: They mean nothing under the law as it exists in the Commonwealth.

The SPEAKER: Order!

Mr. O'Neil: Have a look at the 1961 agreement.

Mr. J. T. TONKIN: I have not allowed for interpolations in the answer.

Sir Charles Court: I should not imagine you would have.

Mr. J. T. TONKIN: To continue—

(3) The Australian Minister for Transport will be making an announcement today that his Government will provide $1,350,000 for all the aerodrome upgrading necessary to allow DC9 operations at Port Hedland, Broome, Derby, and Kununurra by Trans-Australia Airlines and Ansett Transport Industries if it so desires. No upgrading of navigational aids is required. We are awaiting details from the Australian Government as to the timing of the upgrading.

Sir Charles Court: You would fall for the three-card trick any day.

8. PETROL AND FUEL OIL

Curtailment of Use

Mr. McPHARLIN, to the Premier:

Press reports have indicated that petrol and fuel oil cuts have been imposed in other countries, including the United Kingdom and America. Has he received any advice from the Prime Minister as to what action may be taken by the Federal Government should the necessity arise to curtail the use of fuel in Australia?

Mr. J. T. TONKIN replied:

No.

9. DEVELOPMENT

Businesses Assisted by Government

Mr. J. T. TONKIN (Premier): Earlier I requested that question 6 without notice asked by the member for Canning be postponed until a later stage of the sitting. I want to explain that yesterday I had prior notice of a question to be asked by the Leader of the Opposition and a question to be asked by the member for Canning. Because of the discussion which followed your disallowance of question 20 on yesterday's notice paper, Sir, we did not have any

questions without notice but proceeded to Orders of the Day. It therefore follows that I have here the answers that I would have given yesterday had the questions been asked. The answer to the question by the member for Canning is as follows—

(1) and (2) Guarantees issued by my Government certainly helped to stimulate employment in the private sector at a time when unemployment presented a serious problem.

Businesses assisted by way of guarantees issued since March, 1971, are—

Able Star Engineering Co. Pty. Ltd.
Amted Industries, Merredin.
Brake and Clutch Services, Northam.
Carnarvon Butchers.
Co-operative Bulk Handling Co. Ltd.
Copolymer Industries Pty. Ltd.
Coral Bay Pty. Ltd.
Derby Meat Processing Co. Ltd.
Dumar Motel.
Emu Experimental and Research Farms Pty. Ltd.
Gandy Timbers Pty. Ltd.
Gayway Footwear.
Geraldton Fishermen's Co-operative Ltd.
Glarosa Poultry Lodge.
Gorges Caravan Park Pty. Ltd.
Hotel Kununurra Pty. Ltd.
Hunter, A. B., Cuballing.
Jurien Bay Caravan Park.
Keetah Products Pty. Ltd.
Kimberley Meats Pty. Ltd.
Kimberley Seeds Pty. Ltd.
Lancelin Slipways.
Laura Fashion Leather Goods.
Lenham Tanneries Pty. Ltd.
Manjimup Canning Co-operative Ltd.
Marion Manufacturing Pty. Ltd.
Medicentre Pty. Ltd.
Metal Manufactures (W.A.) Pty. Ltd.
Modular Masonry (W.A.) Pty. Ltd.
Norcape Lodge.
North Lake Footwear Pty. Ltd.
Oat Milling, Company of (Katanning).
Ord River Farmers' Co-op.
Parri Wines Pty. Ltd.
Pemberton Joinery Works.
Pilbara Meat Investments Pty. Ltd.
Pinjarra Bricks Pty. Ltd.
Refinoil Pty. Ltd.
Roebourne Caravan Park.
Sarich, T. R.
Schmidt, Max.
Sherwood Overseas Pty. Ltd.
South Australian Barytes Ltd.
Southern Meat Packers Ltd.
Sunseeker Sportswear Pty. Ltd.
T.T.K. Industries.
Wallace Engineering Pty. Ltd.
Watters, J. E.

Sir David Brand: That was not a very profitable one.

Mr. J. T. TONKIN: To continue—

West Span Pty. Ltd.
Westside Mines N.L.
Winston Carpet Manufacturing (W.A.) Pty. Ltd.
Wyndham Meats Pty. Ltd.

The SPEAKER: The next will be the last question without notice.

10. CURRENCY REVALUATION

Government Policy

Sir CHARLES COURT, to the Premier:

Yesterday I sent a copy of a question I intended to ask without notice, but, as the Premier has already indicated, we were rather cut off in our prime yeserday and did not deal with questions without notice. I will therefore ask the question now, which is as follows—

(1) Has the Government had discussions with the Commonwealth Government about future policies for the Australian dollar in view of the importance of such policies to Western Australia's agricultural and mining industries and the recent—

(a) devaluation of the Japanese yen;

(b) strengthening of the U.S. dollar; and

(c) the decision to end the two-tier gold system?

(2) If not, does he propose such talks and, if so, when?

(3) If talks have taken place, has he received an assurance that Western Australia will be consulted before any changes are made?

Mr. J. T. TONKIN replied:

(1) No.

(2) No. My views on revaluation have been made known to the present Government and that which preceded it.

(3) Answered by (1).

TOURIST BILL

Second Reading

MR. T. D. EVANS (Kalgoorlie—Attorney-General) [3.10 p.m.]: I introduce this measure on behalf of the Minister for Tourism and in so doing I move—

That the Bill be now read a second time.

This legislation has been prepared by the Government and presented to Parliament as a fulfilment of the previously-declared election policy relating to tourism in which it was stated that the Government planned to—

- Step up tourism research and promotional programmes.
- Seek the fullest co-operation from the private sector of the tourist industry.
- Create an administrative organisation designed to achieve these intentions.

The primary purpose of the Bill is to—

- Establish a tourist industry council.
- Repeal the Tourist Act, 1959-1970.

The Tourist Act of 1959 established the Tourist Development Authority, the broad functions of which are to—

- Recommend to the Minister measures for publicising and developing the tourist industry in Western Australia.
- Promote, assist, and co-ordinate the activities of persons and organisations concerned with the development of the tourist industry in Western Australia.
- Recommend to the Minister the making of payments out of the Tourist Fund, as established by the Act, towards the improvement of tourist facilities in the State.

The Act provides for the authority to consist of—

- The Minister, or his nominee, who is the chairman.
- Three members representing the Minister for Lands, the Minister for Works, and the Treasurer.
- One member representing the Minister administering the Main Roads Act, 1930.
- One member representing local government interests and the country tourist bureaus.
- Two members representing persons having a special interest in the development and the publicising of the tourist industry.

A study of these provisions makes it clear that representation from the private sector of the tourist industry is in the minority, and that there is a heavy preponderance of Government representation. The Government considers that this is a grave shortcoming, and that there is an urgent need to place industry representation on a more appropriate basis.

Since 1959 there has been a significant growth rate in the development of the tourist industry throughout the world. During the period 1967 to 1972 the movement of tourist traffic on an international or global basis increased by 42.4 per cent. The financial return from global tourism during the same period increased from A$12,000,000,000 to A$20,300,000,000 or 69.2 per cent.

Here in Australia the growth rate as regards visitor arrivals from overseas during the same period was 87.3 per cent., or in terms of monetary return an increase from A$79,000,000 to A$139,000,000 or 75.9 per cent. Research conducted by the Australian Tourist Commission reveals that 49,000 overseas tourists visited Perth during 1972, and spent an estimated A$8,600,000.

Mr. Thompson: I hope the tourists do not go to the John Forrest National Park.

Mr. T. D. EVANS: Not only the capital city gained from this inflow of tourist money. It is estimated that 16,200 of these overseas visitors travelled into country areas, leaving behind an estimated additional A$4,300,000.

Available statistical data indicates that the tourist industry had a total worth to the economy of Western Australia of $53,000,000 during the calendar year, 1972.

This is a conservative estimate, and it is anticipated that during 1973 the figure will rise to approximately A$55,000,000.

It is thus abundantly clear that tourism is an industry deserving of the highest possible level of support from the Government, and that current trends in tourist development and promotion demand more positive means of administration, communication, and representation than are provided for in the Act of 1959.

In order to make way for a more meaningful Government contribution towards the development of the tourist industry it is the Government's intention to—

- Do away with existing legislation.
- Substitute in its place a legislative framework that will meet the requirements of the tourist industry, today and in the future.
- Provide for a meaningful partnership between Government and the private sector of the industry.
- Maintain and expand the level of community involvement at present exemplified by the work of the country tourist bureaus.

To achieve these objectives it is proposed to—

- Transfer the functions and responsibilities of the Tourist Development Authority to a department

of tourism established in accordance with the provisions of the Public Service Act.

Establish a tourist advisory council.

At this stage I would like to make it clear that the Government's intention to do away with the Tourist Development Authority as it is now constituted is in no way a reflection on the manner in which the chairman and members have met their individual or collective responsibilities.

The authority has at all times acted in strict accordance with the intention of the Tourist Act of 1959, and the members have carried out their duties with commendable diligence.

Sir David Brand: The foundations were very well laid, I should say.

Mr. T. D. EVANS: As I was the Minister for Tourism, for a brief period, I endorse the remarks of the previous Minister. I am aware that the author of the Tourist Act is here in this Chamber. The simple fact is that the Act of 1959 is no longer considered to be appropriate to the needs of a challenging, diversified, and developing industry, with a strong demand for complete understanding and co-operation between the Government, the private sector, and the very large section of the community involved in tourist activities.

The legislation now before Parliament is not, therefore, in any way a reflection on the authority, or on the 1959 Act itself. It is a positive attempt to lay the foundation of a new organisation that will permit the department of tourism to consolidate and expand the current developmental programmes, and meet the demands of the future.

The functions of the advisory council established by this Bill shall be to—

Advise the Minister on matters pertaining to tourism and on proposals to assist and develop the growth of tourism.

Examine and report to the Minister upon any matters referred to the council by the Minister—including applications for financial assistance.

I might also recommend to the Minister concerned that he should prepare short speeches for the introduction of his Bills!

I would emphasise that this is an advisory committee, and that the executive responsibilities previously assumed by the Tourist Development Authority will be taken over by the department of tourism. This arrangement will permit the department to exercise its executive functions in the most effective manner possible, aided as it will be by the advice and guidance received from a specialist body, truly representative of the tourist industry, but nevertheless including a solid core of Government membership.

The Government is convinced—and, in fact, has been assured by organisations representative of sections of the industry—that a council of this nature, acting in co-operation with the department of tourism, will go a long way towards correcting the fragmentation that currently exists within the industry.

The legislation provides for the council to comprise—

Three ex-officio members, being—

The Under-Treasurer or an officer of the Treasury nominated by the Treasurer;

The co-ordinator, Department of Development and Decentralisation, or an officer of that department nominated by the Minister administering the department;

The director of the department of tourism, or an officer of that department nominated by the Minister.

Seven other members appointed by the Governor, of whom—

One shall be appointed to be chairman of the council;

One shall represent the body known as the Western Australian Council, Australian National Travel Association;

One shall represent the body known as the Australian Federation of Travel Agents, Western Australian Chapter;

One shall represent the body known as The Australian Hotels Association, Western Australian Branch;

Two members representing tourist bureaus within the State which are approved by the department of tourism for financial assistance—

one to represent bureaus located north of the 30th parallel, and one to represent bureaus south of that level of parallel;

One member to represent municipal councils.

In the case of the Australian National Travel Association, the Australian Federation of Travel Agents, and the Australian Hotels Association, representatives will be nominated for appointment by the Minister from a panel of names submitted to the Minister by the respective organisations.

It is proposed that country tourist bureaus' representatives be nominated for appointment by the Minister, again from a panel of names submitted by the combined bureaus.

Similarly, it is proposed that the representatives of the municipal councils shall be nominated for appointment by the Minister from a panel of names submitted to the Minister by those organisations representing local government interests.

It is the Government's intention that the chairman shall hold office for a term of three years. Appropriate steps will be taken to secure the services of a person whose qualifications and experience will enable him to direct the resources of the council towards the primary objectives of—

industry co-ordination;

industry/Government co-operation and understanding;

industry development.

Details of the proposed constitution of the council have been made available to the organisations included in the representation clauses of the Bill now before Parliament.

In particular, these details have been made available to all country tourist bureaus recognised by the existing authority; that is, the T.D.A.

Representations made by these organisations have been carefully considered and, where deemed to be reasonable and practicable, have been included in this legislation.

In seeking to establish a council that will be representative of the many segments of the tourist industry, the Government has elected to restrict membership to those organisations which in themselves are considered to be representative of a number of affiliated, or kindred associations.

The Australian National Travel Association—at national and State level—has for some time been engaged in a reconstruction and promotional programme aimed at achieving recognition of the association as the "voice" of the tourist industry.

There are indications—in this State at least—that this objective will be attained; therefore the inclusion on the council of a representative of this body is considered to be a matter of primary importance.

It follows that the representative of that organisation should be in a position to speak for the many groups which make up the Western Australian Council of the Travel Association—particularly those not separately represented by the more strongly entrenched sections of the industry with their own sectional organisations.

Such a sectional organisation is the Australian Hotels Association, and in this case the Government believes that the widespread influence of this association—particularly as regards the residential or accommodation requirements of the tourist industry—warrants special representation.

It is understood that some controversy has resulted from the decision to include in the council a representative of the Australian Federation of Travel Agents—on the ground that this is an organisation traditionally associated with the promotion of travel "out of" and "not into", Western Australia.

Such may have been the case—and may still be the case in some instances—but there is now abundant evidence to suggest that many of the leading travel agents are taking a new and more meaningful look at the promotion of travel "within the nation" and, in certain cases, the promotion of travel from overseas areas into Australia, and Western Australia in particular.

For these reasons the Government firmly believes that nothing but good can come from the presence at the council table of a representative of a section of the industry that is capable of wielding a great deal of influence in the field of interstate and international marketing and promotion.

Previously I referred to the Government's intention to maintain and expand the level of community involvement in the tourist industry, and I cited the country tourist bureaus as being the "yardsticks" by which this level of interest could be measured.

The Government recognises the significant contribution made by country tourist bureaus towards the development of the tourist industry in many parts of the State.

Sir David Brand: Does the Minister know whether the chairman has to be a Government employee?

Mr. T. D. EVANS: The Bill does not require this. As I understand it, it would be open to the Minister to appoint any person, but the member for Greenough must have regard for the fact that I was not responsible for drafting the measure.

As a measure of this recognition, the Government believes that in a council of 10, at least two members should represent the interests of those most closely involved in the development of community involvement in the industry, and that one should represent the northern areas, and one the southern sector of the State.

It is freely conceded that without this level of community involvement the Government could not hope to cope with the task of providing tourist information services in the country towns where tourists quite rightly expect to find facilities that are now taken for granted as being an essential part of the tourist plant in a go-ahead tourist State.

I would like to make it absolutely clear that this Bill poses no threat to the existence or the welfare of the country tourist bureaus recognised by the Tourist Development Authority in its present form.

The Government will continue to recognise the need for financial assistance for the operation of country tourist bureaus

and will maintain the procedure whereby bureaus receive Government subsidies based on financial support from local government sources, and on income earned by the bureaus.

The administration of this procedure will in future be undertaken by the department of tourism and the Government will ensure that sufficient funds are available for the maintenance, and where possible, the extension of the existing grant system.

Furthermore, there will be no interference with the autonomy of the existing country tourist bureaus' committees, and no attempt to intrude into the affairs of the tourist bureaus' representative body known as the Country Tourist Bureaus Secretariat.

Turning again to representation on the advisory council, provision has been made for the inclusion of a local government representative.

In this regard, the Government recognises the part played by local government bodies, particularly in country areas, in the provision of essential items of tourist plant, such as caravan parks, recreational facilities, and foreshore development.

It is believed that the inclusion of a local government representative on the council will enable this past co-operation and practical assistance to continue and to develop into a new and more meaningful relationship between the department of tourism and local government.

Government representation has been kept at what is considered to be a practical minimum of three members. I think that may answer the question asked by the member for Greenough. Three members only are specified in the Bill as being drawn from the Government sector.

The vital requirements of finance and development have been recognised by the inclusion of representatives from the Treasury and Department of Development and Decentralisation.

The director of the department of tourism will take his place at the council table, thus providing a direct link between the department and the council.

Clause 7(1) of the Bill provides for the council to meet at least four times each year. Should it be necessary for the council to meet more frequently, in order to deal with matters of special urgency, the Minister may convene additional meetings as considered necessary and appropriate.

Proceeding to clause 9 of the Bill, it will be seen that provision has been made for the transfer to the Treasury of all moneys, and all assets and all liabilities of the authority as now constituted.

It is further proposed that the future operations of the department of tourism be funded from the Consolidated Revenue Fund.

I will now summarise what the legislation foreshadows.

Sir David Brand: Will it be established under the new legislation that special moneys are to be set aside for tourist activities?

Mr. T. D. EVANS: If the member for Greenough studies the Bill, he will find the answer to the question.

Mr. O'Neil: The answer is "No".

Mr. T. D. EVANS: The legislation foreshadows the following—

> The creation of a department of tourism to replace the Tourist Development Authority as it is now constituted.
>
> The creation of a tourist industry advisory council representative of all sections of the industry actively concerned with the promotion and day-to-day operation of the industry.

The Government believes that the enactment of this legislation will enable the department of tourism to press on with the task of developing the tourist industry in Western Australia; promoting Western Australia as an exciting and satisfying tourist destination; encouraging community involvement in the tourist industry; and establishing a sound basis of understanding between the department and the industry concerning the Government's plans for the development of the tourist industry in Western Australia.

A great deal has been achieved in the past two years in the areas of promotion, marketing, research, industry education, and the development of a sound and efficient administrative system. It is fair to say that never at any other stage of tourist development in this State has there been such interest by developers, investors, promoters, and operators.

Sir David Brand: Have you any idea what will happen to the present directorate?

Mr. O'Neil: A shake of the head does not appear in *Hansard*.

Mr. T. D. EVANS: In the Eastern States the sales activities of the Western Australian Government travel centres clearly reveal that the impact of recent and current promotional programmes has been significant, and has resulted in a very real and broad awareness of the attractiveness of Western Australia as a tourist destination. Whilst the effect of overseas marketing campaigns has not yet reached significant proportions, sufficient evidence is available to suggest that there is a definite potential for the development of these overseas markets.

The action of the Australian Government in appointing a Minister for Tourism and Recreation, and providing for substantial grants for the development of the industry on a national basis, is a positive recognition of the value of the industry as a

national dollar-earner. Here in Western Australia the way is open for the Government to make a significant contribution towards the advancement and expansion of the tourist industry.

It is no longer impractical or unrealistic to say that the ultimate objective of total industry co-operation is unattainable. It has been proved beyond reasonable doubt that this goal is attainable and that, when attained, the benefits to the entire community and the economy of the State will be considerable.

The Government believes that, if enacted, this legislation, which embodies the essential principles of industry co-operation, will in time make total industry co-operation not only a possibility but also a practical reality. I commend the Bill to the House.

Debate adjourned, on motion by Mr. Ridge.

LIQUOR ACT AMENDMENT BILL

Second Reading

MR. T. D. EVANS (Kalgoorlie—Attorney-General) [3.35 p.m.]: I move—

That the Bill be now read a second time.

This Bill is introduced in anticipation of the Tourist Bill being passed, and I introduce it on behalf of the Minister for Tourism.

The Bill is complementary to the Tourist Bill and provides for the transfer of responsibility for hotel grading loan disbursements from the Tourist Development Authority to the Treasurer.

Under the provisions of the Tourist Act, 1959, and section 109 of the Liquor Act, the Tourist Development Authority may recommend that advances on loan be made to the owner of any hotel for the purpose of effecting necessary improvements with respect to accommodation. At present borrowed funds are used for this purpose—and used to good effect. It is now proposed to alter the Treasurer's role from lender to guarantor. The Bill will authorise the Treasurer, on receipt of an appropriate certificate from the Licensing Court, to guarantee loans under the Industry (Advances) Act, 1947. I might add that the Treasurer is already authorised by section 104 of the Liquor Act to guarantee loans under the Industry (Advances) Act, 1947, for the provision of new hotel accommodation.

I want to emphasise that despite this amendment, the tourist department will still be closely involved with the process and will be expected to investigate and comment on any submissions received by the Treasurer. I commend the Bill to the House.

Debate adjourned, on motion by Mr. Ridge.

UNSOLICITED GOODS AND SERVICES BILL

Second Reading

MR. HARMAN (Maylands—Minister for Consumer Protection) [3.38 p.m.]: I move—

That the Bill be now read a second time.

The introduction of this new piece of legislation is a result of recommendations of the Consumer Affairs Council of Western Australia which closely looked at the practices of "inertia selling" and "pseudo-invoicing", which had developed in this State following a similar pattern of development in other States of Australia. The council was firmly of the opinion that the practice of marketing unordered goods and services in this State had reached such proportions as to justify legislative measures to control it so as to protect the consumer. The Consumer Protection Bureau was the recipient of many complaints relating to these matters.

"Inertia selling" may be briefly described as the practice of sending unsolicited or unordered goods with an invoice, seemingly on a sale or return basis, or inducing persons or firms to order goods without their realising it by means of a form designed to obscure the fact that it is or contains an order. It is an unethical way of pushing people into paying for things they have not sought and do not want.

"Psuedo-invoicing" is the practice of inducing subscriptions to business or other directories or other services by the use of misleading order forms which have the appearance of invoices. It is a form of deception for trapping the unwary.

This practice has been the subject of continual complaint to the Consumer Protection Bureau of Western Australia by persons who have received notices through the mail from publishers compiling business directories. The form of solicitation so closely resembles an invoice for services rendered that some firms have paid the sum stated before realising they had not requested entry in the particular trade directory. Many of the forms resemble closely the invoice used for subscribing to the telephone directory pink pages and therefore savours further of planned deceit.

Often accompanying these practices is the threat to the recipient who fails to pay on demand that he will be blacklisted as a debtor or defaulter, or with some other form of punitive action.

The practices are objectionable because they constitute intrusion into the rights of the individual and are personally irritating. Other countries such as the United Kingdom, U.S.A., and Canada have enacted laws to deal with them.

In 1971 the Commonwealth and States Attorneys-General looked at draft legislation on inertia selling prepared by New South Wales, and a joint effort prepared by South Australia and Victoria. However, agreement was not reached. Since then, South Australia—March 1972—and Victoria—May 1972—have each introduced an Unordered Goods and Services Act. On the other hand, the Australian Government, on the 25th October, 1973, introduced into the House of Representatives, the Trade Practices Bill—which has since passed that House and gone to the Senate—which contained clauses 64 and 65 dealing with inertia selling and pseudo-invoicing practices.

It is found that these clauses follow closely the similar legislation existing in South Australia and Victoria, and the Western Australian Bill has been formulated along parallel lines to obtain uniformity as far as practicable. Other States, it is understood, are also planning similar legislation.

The Consumer Affairs Council in Western Australia circulated its views on the need for such legislation to a number of local organisations who in turn generally supported the idea. The need to frame the legislation to protect the bona fide sender or retailer of the goods in the event of mistaken identity or other valid reasons has not been overlooked so that his title to the goods can be preserved in certain circumstances.

I will now comment on the various clauses in the Bill.

Clauses 1 and 2 deal with the short title of the Bill and the date of commencement.

Clause 3 includes relevant definitions, some of which are elaborated upon as follows—

> "Directory"—a directory for the purposes of the Act will not include a recognised newspaper published regularly or a publication published under the authority of the Postmaster-General (the telephone directory is in this category). Clause 19 will also allow for other directories or publications to be specified by notice in the *Government Gazette* where exemption from the provisions of the Act is to be accorded to them.
>
> "Prescribed service" is explained further in clause 8.
>
> "Unsolicited goods" refers to goods not requested but received by a person within the State which may have been sent from interstate or intrastate.

Clause 4 enlarges upon the definition of "unsolicited goods" by reference to the position where substitute goods are sent and also where the sender, by certain methods, endeavours to create additional rights and obligations for the recipient.

Clause 5 provides that it is not an offence to send unsolicited goods, but it is an offence to assert a right to payment for them. The posting of an invoice or like document, that implies that payment should be made, is regarded as asserting a right to payment. The provisions of this clause will not operate to prohibit certain practices which are not regarded as objectionable; that is, sending goods on a sale or return basis as a result of a genuine order. Various charitable institutions or enterprises through which charitable institutions benefit follow the practice of sending by post each year sample Christmas cards or calendars, with an invitation to the recipient to order supplies of these goods. As long as they do not assert a right to payment within the meaning of clause 5, but only a request or suggestion to lodge an order, these enterprises, like others, will be free to continue their practices.

Sitting suspended from 3.45 to 4.03 p.m.

Mr. HARMAN: Subclause (2) (a) has been inserted to deal with what are known as "hoax orders", which it is believed are not uncommon in the mail order business. It is clear that a person who sends goods in response to a false order, and then unwittingly asserts a right to payment, ought not to be penalised. This subclause provides a defence in such cases.

Subclause (2) (c) will cover what is known as "series selling" where the next item in the series is despatched to the recipient after he has cancelled his order, but such cancellation is not processed in time or the goods are despatched through clerical error or other genuine mistake. A defence is provided to the sender if he informs the recipient in such circumstances that the recipient is not liable for payment because it was only after despatching the goods that the sender became aware that an order had not been made.

Clause 6 is a provision dealing with "hoax orders", which are referred to in clause 5 also, in which clause a defence is provided to the sender with respect to his asserting a right to payment for unordered goods sent as a result of a hoax order. Clause 6 on the other hand will make it an offence for a person to place a hoax order for goods to be sent to a fictitious person.

In proceedings under this Act against an offender, the burden of proof that the defendant had the authority of the other person to make the request, lies upon the defendant in clause 18 (f).

Clause 7 provides that a person to whom unsolicited goods are supplied is not liable for payment. In subclause (2) it specifies in greater particularity the responsibility of the recipient in relation to unordered goods in his keeping until they are repossessed or, alternatively, they legally become his property. The recipient is obliged to care for the goods in the relevant period

mentioned in subclause (5) inasmuch as he is civilly liable for loss or injury to the goods arising from his own wilful and unlawful disposal, destruction, or damage of the goods, but has no liability for loss or injury otherwise. Although this may seem an imposition on the recipient, in view of the peculiar circumstances which can arise in these matters, it is preferable to expect the recipient to act with a sense of responsibility until matters are finalised.

Subclauses (3) to (6) provide that a recipient of unordered goods has two courses open before uncollected goods become his property, freed and discharged from all liens and charges of any description. They are—

(i) to send written notice to the sender of receipt of the goods and adopt a responsible attitude to care for the goods and wait one month after sending the notice, or three months after the day the goods were received, whichever comes first; or

(ii) not to send any notice to the sender and wait a period of three months from date of receipt of the goods, and at the same time to properly care for them.

In both cases, the recipient must ensure before he can claim possession—as required by subclause (4)—that the goods were not received in circumstances where he might reasonably be expected to have known that the goods were not intended for him or were the subject of a lien or charge. If he exercises dominion over the goods and converts them to his own use before satisfying all requirements he risks being held liable for payment.

Clause 8 specifically states what constitutes an authority or order given by a person to make a directory entry or render a prescribed service. A person is not liable to make any payment and is entitled to recover any payment made by him, unless he has given such an authority.

Services may be prescribed by regulation so as to attract the operation of the Bill. There is no particular service under consideration at present; but one practice, as an illustration, was brought to notice where a firm circularised householders that a man would be calling to service the oil heater on a certain day and that, unless the householder took certain action to cancel the arrangement, he would be held liable for the service charge. If this sort of practice were to grow, then it would be necessary to consider prescribing it as a service to which the Bill applies.

It is considered that these provisions will not hamper the sale of bona fide directories published and distributed by reputable firms, but will do much to discourage the "fly by night" operator who works by deceit.

Clause 9 states that a person shall not assert a right to payment from any other person of a charge or fee for making a directory entry or rendering a prescribed service unless he has reasonable cause to believe that such other person authorised it. Clause 11 further specifies what constitutes an assertion of a right to payment from another person.

Clause 10 provides that the restrictive provisions of the Bill do not apply to persons who assert a right of payment where contracts or agreements relating to the making of a directory entry or rendering of a prescribed service have been made before the commencement of this Act or before the service becomes a prescribed service under the Act.

Clauses 11 and 12 make it an offence to "threaten" people in an attempt to obtain payment—either by threatening legal proceedings, threatening to place a recipient's name on a list of debtors or defaulters, threatening to invoke any other collection procedure, or otherwise making a demand for payment. The use of threats of this kind is one of the most objectionable features of "inertia selling" and is an intolerable intrusion into the rights of the individual.

An invoice or other similar document received by a person which sets out the price of any goods and asserts or implies that payment should be made for any such goods or for the making of a directory entry or rendering a prescribed service must prominently state that "no claim is made for payment in relation thereto" where no order has been given by the recipient if it is to escape offending the Act.

A penalty for an offence of this nature is set down in clause 14 at $500. The burden of proof lies with the defendant to show he had reasonable cause to believe that he had a right to assert a right to payment.

Clause 13 limits the circumstances in which proceedings can be brought by a trader in Western Australia to enforce payment for unsolicited goods, directory entries, or prescribed services where part of the contract was made or performed in another State. Firstly, if goods are sent to a person in another State which does not have a similar law with respect to unordered goods, but the goods sent would be regarded as unordered goods under this Bill if sent to a person within Western Australia, proceedings may not be taken in Western Australia to enforce payment for the goods. Secondly, in a similar case with respect to a directory entry service or rendering a prescribed service, proceedings may not be taken unless a notice of authority in accordance with subclause (2) of clause 8 or a corresponding provision in the law of another State has been given by the recipient.

Clause 14: The general penalty for an offence against the Bill is fixed at a maximum of $500. One other clause—Clause 8: False orders—has a specific penalty of $200. It is considered the general penalty is sufficiently high and it is the same amount as is prescribed in the South Australian and Victorian legislation. It may be realised that where pseudo-invoicing is concerned, each invoice which offends against this Bill could be the subject of proceedings for an offence in each case.

Provision is made in this clause also to avoid a person being convicted a second time, where he has already been convicted under the law of the Commonwealth for the same offence.

Clause 15 provides for proceedings for offences against this Bill to be disposed of summarily before a Court of Petty Sessions.

Clauses 16 and 17 are relevant to proceedings against a body corporate under this Bill.

Clause 18 covers evidentiary proceedings before the court in respect of the admission of documents, burden of proof, etc.

Clause 19 will permit the Governor-in-Council to declare certain transactions and publications not to be subject to this Bill. However this exemption can be made subject to terms and conditions as determined and specified.

Clause 20: This clause will permit the making of regulations necessary or expedient for carrying out the provisions and objects of the Bill. I commend the Bill to the House.

Debate adjourned, on motion by Mr. O'Neil (Deputy Leader of the Opposition).

WESTERN AUSTRALIAN INSTITUTE OF TECHNOLOGY ACT AMENDMENT BILL

Second Reading

MR. T. D. EVANS (Kalgoorlie—Attorney-General) [4.13 p.m.]: I introduce this Bill on behalf of the Minister for Education and, in doing so, I move—

That the Bill be now read a second time.

This Bill, to amend the Western Australian Institute of Technology Act, has six purposes—

(1) To extend the definition of the word "statute" to include a rule made under a statute.

(2) To delete the current requirement that the Council of the Western Australian Institute of Technology seeks the approval of the Minister for Education of terms and conditions of appointment and employment of staff.

(3) To provide for the use of a graduation seal on awards made by the Council of the Western Australian Institute of Technology.

(4) To clarify the authority of the institute, in matters relating to the internal government and enforcement of sanctions within the institution, by clear prescription similar to that contained in the University of Western Australia Act.

(5) To authorise the practice of reporting financial results of the institute bookshop on the basis of financial periods ending on the 30th June each year, rather than on the 31st December as the Act so provides.

(6) To validate previous actions of the council of the institute in making statutes for the determination of the manner in which disciplinary power may be exercised, penalties, and the manner of enforcement.

I will now examine each of the proposed amendments in some detail.

The first amendment is merely to extend the definition of the word "statute" to include a rule made under a statute. This provides four classes of authority; that is, the Act, by-laws, statutes, and rules, as is common in legislation relating to universities and other colleges of advanced education.

The next proposed amendment relates to section 17 of the Western Australian Institute of Technology Act which empowers the governing council of the institute to appoint staff under such terms and conditions as the council thinks fit and the Minister approves. Subsequent to the enactment of this provision, the previous Government had established the Western Australian Tertiary Education Commission by Act No. 84 of 1970, which under paragraph (e) of section 12, provides that body with statutory authority to determine such matters as are indeed referred to in the Western Australian Institute of Technology Act. Consequently, the current requirement to seek the Minister's approval is redundant and, because of its incompatability with the spirit, intention, and provisions of the Tertiary Education Commission Act, it is desirable that it be deleted. Such action would be compatible with the provisions of the recently-proclaimed Murdoch University Act.

The third proposed amendment relates to subsection (2) of section 18 of the Western Australian Institute of Technology Act which presently requires any award made by the council of the institute to be given under the common seal of the institute which has particular signatories, custodians, and endorsement specified. It is considered more appropriate for the respective dean's signature to appear on awards with that of the director of the

institute. Additionally, practical difficulties have arisen with the preparation of large numbers of certificates and it is desirable that the practice be adopted similar to that of universities, where certificates are pre-printed with facsimile signatures and embossed with a separate graduation seal.

The next proposed amendment I wish to deal with concerns section 20 of the Western Australian Institute of Technology Act. The amendments to this section are required as the existing provisions were found to be impracticable making internal government and enforcement of sanctions most difficult. Crown Law opinion is that the present provisions of subsections (4) and (5) relating to disciplinary breaches, not connected to land—and the material words are "not connected to land"—are inadequate and the by-laws, although lawful, might not lawfully be applied. The power of the institute to enforce disciplinary rules, traffic by-laws, and such like is, therefore, very limited.

It is traditional for tertiary educational institutions to make their own internal rules and regulations governing conduct, discipline, and behaviour and for such rules, having been made, to be enforced within the institutions. Hence a breach of a by-law by a student may be considered a breach of discipline, rather than an offence for which a complaint may be brought before a court. In this regard, it may be pertinent to note that the institute has a Disciplinary Statute Committee under the chairmanship of Mr. Justice Wallace. This committee is currently considering recent changes to disciplinary regulations in most Australian universities and is redrafting the disciplinary statute of the institute.

Additionally, it has become necessary for the institute to acquire the ability to charge fees for car-parking facilities following a recommendation contained in the third report of the Australian Commission of Advanced Education for the 1973-1975 triennium.

The commission, in making this recommendation, pointed out that this would establish a principle which colleges would find useful when they are required to provide and finance multi-storied car parks.

The proposal to repeal subsections (4) and (5) of section 20 and the addition of section 20A will overcome these internal problems and the resultant provisions will, in fact, be very similar to existing provisions in the University of Western Australia Act.

The fifth proposed amendment relates to section 22 of the principal legislation. This requires the council of the institute to prepare and furnish to the Minister a report of the operations of the institute, as soon as practicable after each 31st December, covering the 12 months immediately preceding that date. The amendment is sought to authorise the practice of reporting financial results of the institute bookshop on the basis of financial periods ending on the 30th June each year. The main reason for requesting this change is that at the 30th June, selling activity has reached its lowest level and the quantity and value of stock on hand is minimal. In contrast, the stock quantity, value, and sales are near their peak in December of each year. By the addition of subsection (4) to section 22, the proposed amendment allows the Minister, with the approval of the Treasurer, to vary the date mentioned in subsection (1) of section 22 to suit the particular requirements of any operation of the institute.

The final amendment relates to section 34 of the principal legislation and is considered necessary to remove any doubt which may have previously existed concerning the power of the council of the institute to make statutes for the determination of the manner in which disciplinary power may be exercised, penalties, and the manner of enforcement. This amendment merely seeks to validate the previous actions of the institute in such matters. I have pleasure in commending the Bill to the House.

Debate adjourned, on motion by Mr. Mensaros.

Message: Appropriations

Message from the Lieutenant-Governor received and read recommending appropriations for the purposes of the Bill.

CLOTHES AND FABRICS (LABELLING) BILL

Recommittal

Bill recommitted, on motion by Mr. Harman (Minister for Consumer Protection), for the further consideration of clauses 4 and 9.

In Committee

The Chairman of Committees (Mr. Bateman) in the Chair; Mr. Harman (Minister for Consumer Protection) in charge of the Bill.

Clause 4: Power to prescribe articles—

Mr. HARMAN: Members will recall that last week when the Committee stage of the Bill was dealt with they agreed to an amendment to clause 9. Since then we found that a very small mistake has been made, and the Bill has been recommitted to rectify that error.

I also take this opportunity to fulfil an undertaking I gave to the Opposition to look at a point which was raised in respect of clause 4. The member for Darling Range wanted to amend clause 4(1)(c) by including the words "in accordance with current Australian Standards". At the

time I indicated that I would give consideration to the proposed amendment. As the Australian standards will be applied to paragraphs (a) to (c) of clause 4(1), rather than just making the amendment to paragraph (c) by including the words "in accordance with current Australian Standards", it is deemed more desirable to cover paragraphs (a) to (c), so that when consideration is given in the regulations to a prescribed article the application of the Australian standards will be taken into consideration.

This aspect has been taken into account in the provision in clause 4(2)(d). To ensure that this is what is proposed in respect of the regulations to be made under the legislation, I move an amendment—

Page 3—Add after subclause (2) the following new subclause to stand as subclause (3)—

(3) Where an Australian Standard is wholly or in part relevant to the objects of this Act in relation to a prescribed article, any regulations made under this Act with respect to that article shall include such part of that Standard as is so relevant but may make further provision in respect to those matters.

Mr. THOMPSON: I thank the Minister for his acceptance of the principle which prompted me to move in the Committee stage last week to include some reference to the Australian Standards Association in respect of the labelling of clothes. It is true that over the last few years the Australian Standards Association has carried out a considerable amount of research in arriving at a standard to be applied throughout Australia.

I believe it would be a mistake to allow the Bill to pass through this Chamber without binding the legislation, which governs the labelling of some articles of clothing, in accordance with the standards of the Australian Standards Association. The Opposition drew the Ministers' attention to this matter and is, of course, prepared to support the amendment.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 9: Secrecy—

Mr. THOMPSON: I apologise to the Committee for being responsible for having the Bill recommitted. When I drew up the new clause 9 I had a side note, and used the word "secrecy", and the side note was inadvertently typed into the new clause. I accept responsibility for the mistake.

Mr. O'Neil: The Minister accepted the mistake, so let us all be "dobbed in"!

Mr. THOMPSON: I move an amendment—

Page 6, line 1—Delete the word "secrecy".

Amendment put and passed.

Clause, as amended, put and passed.

Further Report

Bill again reported, with further amendments, and the report adopted.

METRIC CONVERSION (GRAIN AND SEEDS MARKETING) BILL

Second Reading

Debate resumed from the 14th November.

MR. GAYFER (Avon) [4.32 p.m.]: I intend to support the measure which was introduced by the Minister for Agriculture, and in so doing I will be fairly brief.

The contents of the Bill are best covered by the words used by the Minister, when he said—

> However, the proposed conversions are considerably more complicated than the usual type of metric conversion amendments which simply delete references expressed in imperial units . . .

The Minister went on to say that—

> . . . although the commercial bushel used in the grain trade is strictly a measure of volume, for payment to growers it has also been used as if it were a measure of weight.

That is, indeed, very true. This custom was established in Britain during the middle of the last century. Section 20 of the Weights and Measures Act of 1915 sets out that—

> In any contract for the sale by the bushel of any articles mentioned in Schedule D, the bushel shall be determined by weighing; the weight equivalent to a bushel of any such article being that stated in the said Schedule.

From that determination came the commercial weight for a bushel of grain. In the case of wheat it became 60 lb., in the case of barley it became 50 lb; and in the case of oats it became 40 lb. Those weights have been accepted internationally.

When it came to changing the recognised bushel for a tonne, and allowing deductions for tolls and handling of the grain by the tonne rather than by the bushel, anomalies were created.

I do not intend to speak at any great length on this matter—nor would the Minister want me to do so unless we both had a couple of advisers available—but if we take the 60 lb. weight as being a commercial bushel of wheat, and we divide a tonne into bushels, we find that the true conversion is 36.74371036414625. In other words, the measurement would go to the 14th decimal place.

For the sake of convenience the Minister has rounded the figure off at 36.744. Possibly it would have been better to take the figure to the next decimal place and make it 36.7437. That would have given a difference of .0003, which may have been an advantage to some and a disadvantage to others. Nevertheless, I can assure members that this matter has been well and truly examined by all concerned in the trade, by the Minister's advisers, and others concerned with this necessary amendment. Everybody is in complete accord.

If any member cares to raise any points of issue during the Committee stage I have several references with me covering the correspondence entered into on this matter when it was discussed with the Minister and his advisers. If one of my learned friends would care to sit alongside me I feel sure we could explain some of the formulas which have been presented in the documents I have in my hand at the moment.

I am not attempting to be facetious; this is an important Bill. It will set out the system of deductions which will apply in the future. It refers to the building of silos and will change references to distances from miles to kilometres. It also refers to the capacity provision of certain areas by which the farmers demand the right to have bins constructed.

The only way this conversion could have been carried out is by means of a Bill such as the one we have before us. I assure members that I have discussed the Minister's second reading speech with the trade. The trade has commended the Bill and in this respect I have received a communication from the board of Co-operative Bulk Handling Ltd. stating that the Government proposals are acceptable, and in accordance with discussions which took place with the Department of Agriculture. I give my commendation to the Bill.

MR. H. D. EVANS (Warren—Minister for Agriculture) [4.38 p.m.]: I doubt whether there is anybody in the House who would be more qualified to speak on this Bill than the member who has just resumed his seat. His long association with the grain trade is well known, as is his work in association with C.B.H., in which organisation he holds a most prominent position.

The member for Avon is perfectly correct in drawing attention to the difficulties which have occurred, not only with regard to the pure statistics of conversion but also the anomalies created in endeavouring to relate volume to weight. The matter was complicated even further at that stage.

These complications have been reflected in the problems faced during the course of drafting the measure, and I understand the Crown Law Department was hard pressed to interpret the spirit and the accuracy of the conversion into legislative form. The department has done a particularly good job in this regard.

There is no point in delaying the House. The trade is already involved in metric weights and measures and it is a sheer necessity to bring the legislation up to date. I thank the member opposite for his support and commend the Bill to the House.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

Third Reading

Bill read a third time, on motion by Mr. H. D. Evans (Minister for Agriculture), and transmitted to the Council.

DEATH DUTY ASSESSMENT BILL

In Committee

Resumed from the 13th November. The Chairman of Committees (Mr. Bateman) in the Chair; Mr. T. D. Evans (Assistant to the Treasurer) in charge of the Bill.

Progress was reported after paragraph (d) of subclause (2) of clause 10 had been agreed to.

Paragraph (e)—

Mr. R. L. YOUNG: To refresh the memory of the Committee, paragraph (e) of subclause (2) of clause 10 relates to bringing into a person's estate what is called notional property. Paragraph (e) deals with notional property which will be deemed to be so by virtue of the assignment of a life assurance policy within three years of a person's death. The present provisions in the Administration Act will be amended so that if a person dies within three years of assigning a life assurance policy the whole value of the policy on that person's death will be added to his estate regardless of the fact that he may have received only the surrender value of it at the time he assigned it.

I want to do a number of things in regard to this paragraph. Firstly, I want to move an amendment to delete the word "before" so that we can at least remove the suggestion that a person who has entered into an assignment of a life assurance policy prior to the coming into operation of the Act will not be caught by this provision. Secondly, I want to move an amendment to insert certain words which the Assistant to the Treasurer has advised me he will accept. Thirdly, I want the Assistant to the Treasurer to consider seriously the possibility of adding a further subclause to clause 10 to act as a proviso to this paragraph to the effect that it will apply only to transactions which are not bona fide transactions. To that end,

I refer the Assistant to the Treasurer to the explanatory notes which accompanied the Bill.

Those explanatory notes refer to the fact that the amendment is based on the example of a deceased person who, at the time of entering into a transaction of this nature, did not have a normal life expectancy. The explanatory notes justify the inclusion of this amendment in the Bill on that basis. That is the catalyst for the amendment.

This is a case where the legislation is being written in order to catch what I described in my last speech on this subject as an immoral act. In my opinion, this particular transaction was entered into through the life assurance company assisting the deceased person to arrange his affairs in what could only be described legislatively as an immoral way. I thought the company which entered into the arrangement was wrong in doing so. However, the fact of the matter is that particular transaction formed the catalyst for this amendment, which is drafted to catch not only the person who takes the action described on page 14 of the explanatory notes but also every person who makes a valid assignment of a life assurance policy, in good faith, within three years of his death.

It means that partners who enter into life assurance policy cross-assignments, in most cases for the purpose of enabling one partner to buy the deceased partner's share of the goodwill on death, and for certain other purposes, will be caught.

The genuine transfer of a life assurance policy from a father to a son and other such matters will also be caught under this provision. These are transactions which are entered into on a bona fide basis by people who do not necessarily know that death is imminent; yet the legislation has been drafted on the premise that it is necessary to word it in such a way as to cover a certain case in which a person did not have a normal life expectancy. So the third thing I want to achieve is to convince the Assistant to the Treasurer that it is necessary to have a new subclause (10) to exempt bona fide transactions from the operations of paragraph (e) of subclause (2). Unless this is done all the dangers which I have pointed out on two or three occasions will make themselves apparent, although not necessarily in the hands of the present Treasurer or Commissioner of State Taxation.

We are not here to write legislation on the basis that the present commissioner and Treasurer are nice chaps; we are here to write legislation that is fair and reasonable, regardless of whose hands it falls into. For that reason, I move an amendment—

> Page 11, line 23—Delete the passage "before,".

Mr. T. D. EVANS: The member for Wembley addressed himself to three amendments, and has moved one of them. I would like to speak to the three amendments because they are related. Firstly, I point out that I am prepared to accept his amendment to add after the word "him" in line 27 the passage ", or receivable by his estate,". Obviously the use of the word "receivable" is more appropriate than the words "paid to the estate" because the consideration does not in every case flow from the assignee, but it is receivable by the estate.

I point out that paragraph (e) has been taken from section 90(1)(c) of the Administration Act, which reads as follows—

> 90. (1) Subject to and without affecting the operations of any of the preceding sections of this Part of this Act, and, so far only as those provisions do not apply, succession duty shall be levied and paid, at such rate as is declared by Parliament and as is referred to in subsection (1a) of this section on the net present value of—
>
> (c) the beneficial interest in any money received under a policy of assurance effected on his life by any persons dying after the commencement of this section where the policy was wholly kept up by him for the benefit of a donee, whether nominee or assignee, or a part of the said money proportionate to the premiums paid by him, where the policy was partially kept up by him for the benefit of a donee as aforesaid.

It is demonstrably clear that paragraph (e) contains two basic changes from that provision. No reference is made in the Bill to the appointment of succession duty, nor is it referred to in the Death Duty Bill. So if this Bill is passed succession duty will disappear. The other basic change is that if the provisions of section 90 (1) (c) of the Administration Act apply, then there is no time limit; they would apply if the event took place 33 years prior.

Although this type of policy will be brought into dutiable estates under the proposals in the Bill and will attract death duty, succession duty will disappear. The event which will attract duty must take place within three years.

The philosophy behind this legislation is to provide increased benefits across the board and to remove certain inequities, because certain devices are not available to all taxpayers. Therefore I cannot accept the amendment moved by the member for Wembley.

I indicate that the honourable member's proposed new subclause (10) will be examined. I have indicated that if the Bill is passed I intend to move for its

recommittal. In the meantime I am prepared to accept the other amendment of which he has given notice.

Mr. R. L. YOUNG: I did not hear the Assistant to the Treasurer give any real reason why he would not agree to the amendment.

Mr. T. D. Evans: If I did it would leave an inequitable situation in existence.

Mr. R. L. YOUNG: No, it would not. I have pointed out on two occasions, the first of which was on clause 3, that if the Assistant to the Treasurer accepted the philosophy of my amendments it would be necessary to recommit the Bill and to go back to clause 3 and make certain amendments to enable the present taxing situation to continue until the date of the coming into operation of this measure.

The wording of the amendments to withdraw certain parts of the Administration Act is such that certain assets will be left undutiable if my amendments are passed without other amendments being made to clause 3. So I do not accept the Minister's comments as an answer.

If we are talking about the removal of succession duty, that is a different question altogether because then we are talking about only a small number of people whose assets would fall below the $15,000 minimum if it were not for the passage of this Bill.

These are the people who, under existing circumstances, do not have an estate valued at at least $15,000, but who will be caught up for succession duty. There are some of these cases, but not sufficient in number to justify legislation which says that because of the actions taken by one taxpayer, anyone who last year or the year before—without any forewarning of this legislation—entered into a transaction to assign his policy and dies immediately after the coming into operation of this legislation next year, will be affected; and his estate will have added to it the total value of the life assurance policy.

So, we might have quite a number of people who have made valid assignments to their wives, sons, partners, life assurance companies, or banks in all good faith, when the policy was worth $3,000 or $4,000. Yet, under this legislation, the estates of such persons will have added to them the full amount for death duty.

In respect of succession duty which affects a small number of people, there is no justification to apply the retrospectivity that is envisaged in this legislation. I do not wish to push this point any further, because we have discussed it on a number of occasions. The fact of the matter is that it is quite clear that is what the Bill does; and it is quite clear that both the Treasurer and the Minister assisting the Treasurer now know what it does. They have accepted the philosophy and agreed it is a good thing; but they refuse to say it is retrospective legislation.

That is their problem, and not mine. However, I would be failing in my duty if I did not pursue this amendment and similar ones to other clauses, and to call for a division if the vote is against me.

Amendment put and a division taken with the following result—

Ayes—23	
Mr. Blaikie	Mr. Nalder
Sir David Brand	Mr. O'Connor
Sir Charles Court	Mr. O'Neil
Mr. Coyne	Mr. Ridge
Dr. Dadour	Mr. Runciman
Mr. Gayfer	Mr. Rushton
Mr. Grayden	Mr. Sibson
Mr. Hutchinson	Mr. Stephens
Mr. A. A. Lewis	Mr. R. L. Young
Mr. W. A. Manning	Mr. W. G. Young
Mr. McPharlin	Mr. I. W. Manning
Mr. Mensaros	*(Teller)*

Noes—23	
Mr. Bertram	Mr. Hartrey
Mr. Brady	Mr. Jamieson
Mr. Brown	Mr. Jones
Mr. Bryce	Mr. Lapham
Mr. B. T. Burke	Mr. May
Mr. T. J. Burke	Mr. McIver
Mr. Cook	Mr. Norton
Mr. Davies	Mr. Sewell
Mr. H. D. Evans	Mr. A. R. Tonkin
Mr. T. D. Evans	Mr. J. T. Tonkin
Mr. Fletcher	Mr. Moiler
Mr. Harman	*(Teller)*

Pairs	
Ayes	Noes
Mr. E. H. M. Lewis	Mr. Taylor
Mr. Thompson	Mr. Bickerton

The CHAIRMAN: The voting being equal, I give my casting vote with the Noes.

Amendment thus negatived.

Mr. R. L. YOUNG: I move an amendment—

> Page 11, line 27—Add after the word "him" the passage ", or receivable by his estate,".

It might be possible to interpret the wording of this part of the clause in such a way that where a deceased person has not received the money payable to him under the assignment prior to his death, he can be assessed notionally both for the debt owing to him and also in respect of the amount prescribed in clause 10(1)(e). The Assistant to the Treasurer has indicated he is agreeable to the amendment.

Mr. T. D. EVANS: I confirm that this amendment is acceptable to the Government.

Amendment put and passed.

Paragraph, as amended, put and passed.

Paragraph (f)—

Mr. R. L. YOUNG: The recommendation I put to the Assistant to the Treasurer in respect of the philosophy of this provision

in the clause is that the clause, even in its amended form, is not acceptable to members on this side of the Chamber because it still has as its main aim the addition to the estate of a deceased person the complete value of that person's life policy which he assigned prior to his death. The provision is repugnant to us because it will achieve what the Assistant to the Treasurer said it would achieve; but in fact it will achieve a lot more. The Minister has agreed to consider in principle a new clause to be drafted, so that bona fide cases will be exempt.

Mr. T. D. Evans: I did not say that. I said I would consider what the honourable member had to say.

Mr. R. L. YOUNG: This measure should only apply where such people did not have a normal life expectancy at the time they entered into these transactions.

Paragraph (f) of subclause (2) deals with what are known as settlements. In the second reading debate I dealt with this question. This paragraph has to be read in conjunction with subclause (4) of clause 10. The effect of paragraph (f) is to say that any settlement whatsoever entered into within three years of a person's death will be added to the estate of that person at the value before he died; in other words, the principle is similar to the one we have just discussed.

The principle of the amendment I intend to move is exactly the same in respect of retrospectivity. It is even more important in respect of settlements that we do not have the legislation being made more retrospective than in the preceding paragraph. Such settlements are like the situation I described previously in relation to annuitants, because a person cannot say, "Now that the law has been changed I will rearrange my settlement."

Mr. T. D. Evans: Not all settlements are irrevocable.

Mr. R. L. YOUNG: That might be so. However, I have not seen any revocable settlements, but I do not deny that what the Minister has said is true. I say that the great majority of settlements are irrevocable, and are required to be irrevocable for the purpose set out originally. I refer to those settlements which represent 95 or 96 per cent. of the settlements that are entered into; I am talking about irrevocable action which has been taken to settle money on somebody else.

If we write into the legislation a provision to say that where people entered into such transactions some years ago on an irrevocable basis, their estates will still be assessed for duty.

I think the Minister will take the same attitude on this amendment, as he did on the other one. I say it is ludicrous to put people into this position. There is very little that I can say in justification of such an attitude. For the purpose of deleting the retrospective effect of this measure I move an amendment—

Page 11, line 36—Delete the passage, "before,".

Mr. T. D. EVANS: Paragraph (f) deals with settlements, and with your indulgence, Mr. Chairman, I would like to correct a statement the Leader of the Country Party made in his political notes in last Thursday's issue of *The West Australian*, as follows—

"SETTLEMENT"

> During the debate on the Death Duty Assessment Act Bill, the Attorney-General claimed that the definition "settlement" was taken from the Administration Act and yet, after careful examination, this cannot be found.

I do not know whether the Leader of the Country Party was trying to mislead the public or whether he is incompetent; but if he looks at section 82 of the Administration Act, he will find a definition of "Settlement".

Mr. McPharlin: We looked while you were speaking, but could not find it, and neither could you.

Sir Charles Court: You could not find it, either.

Mr. T. D. EVANS: The Leader of the Country Party is confused, as is the Leader of the Opposition.

Sir Charles Court: You could not find it then, because we asked you to do so.

Mr. T. D. EVANS: I was looking in section 69 of the Administration Act for the definition but found there the definition of "dependent child". However, on further research I found that it is in the Death Duties (Taxing) Act where the definition is of "dependent widowed mother". The common element between the definition of "dependent parent" in the Bill and "dependent widowed mother" in the Death Duties (Taxing) Act is assistance by the deceased. The missing link was the definition of "dependent widowed mother", and that was the definition I had difficulty in finding. The Leader of the Country Party told the people that I could not find the definition of "Settlement" but it is to be found in section 82 of the Administration Act. The Leader of the Country Party has proved that he was not trying to mislead the people, but that he is confused.

Sir Charles Court: You said you could not find it.

Mr. T. D. EVANS: I was referring to the definition of "dependent parent".

Sir Charles Court: Before you sit down, you said that dependent parent was—

Mr. T. D. EVANS: We are now dealing with settlements. I introduced the other matter merely to clear up the point.

Sir Charles Court: Fair go!

Mr. T. D. EVANS: The amendment clearly seeks to exempt from the payment of duty all settlements made before the 1st January, 1974. Those settlements at present attract succession duty, and the effect of the amendment will be that they will attract no duty at all. We do not wish, while correcting inequities, to create others. Under the amendment some taxpayers will be carrying an extra burden because those who made settlements prior to the 1st January will be exempt when those settlements now attract a duty.

I make a final point. Under the Bill only those settlements of a person who has died within three years will be affected. Under present law all settlements, no matter how long ago they were made, are affected and attract succession duty. The amendment proposed is not acceptable.

Mr. R. L. YOUNG: I think it is probably necessary again to point out to the Assistant to the Treasurer the fact that succession duty may be payable now on settlements is not the question at issue. The question at issue is that under the legislation settlements within a three-year period will be caught. In respect of succession duty, the only people who will be saved the payment of such duty under the Bill will be those whose estates do not reach a total value of $15,000 for assessing purposes.

Mr. T. D. Evans: After taking into consideration all the concessions, yes. These could take an estate up to $65,000 in the case of a widow with three children.

Mr. R. L. YOUNG: That is true. However, we are talking of people who have entered into settlements. It could be the Government's philosophy that such people should get caught if they have that sort of money; but the plain fact of the matter is that those who make settlements invariably are not people whose net estates fall under the $15,000 minimum limit. So the question is: Do we catch them because they can afford to make settlements or because we want to catch them under legislation that is just, reasonable, and equitable?

The situation is the same regardless of how much money a person might have. It is a question of simple justice. Should a person who has entered into, in most cases, an irrevocable settlement be caught by a Government which takes action after he has made up his mind to take the irrevocable action and has committed himself to a certain amount of money? In those circumstances under the legislation his estate is still notionally assessed if he dies within a certain time. That is what we are talking about, and not about succession duty.

Amendment put and a division taken with the following result—

Ayes—23

Mr. Blaikie	Mr. Nalder
Sir David Brand	Mr. O'Connor
Sir Charles Court	Mr. O'Neil
Mr. Coyne	Mr. Ridge
Dr. Dadour	Mr. Runciman
Mr. Gayfer	Mr. Rushton
Mr. Grayden	Mr. Sibson
Mr. Hutchinson	Mr. Stephens
Mr. A. A. Lewis	Mr. P. J. Young
Mr. W. A. Manning	Mr. W. G. Young
Mr. McPharlin	Mr. I. W. Manning
Mr. Mensaros	*(Teller)*

Noes—23

Mr. Bertram	Mr. Hartrey
Mr. Brady	Mr. Jamieson
Mr. Brown	Mr. Jones
Mr. Bryce	Mr. Lapham
Mr. B. T. Burke	Mr. May
Mr. T. J. Burke	Mr. Moiler
Mr. Cook	Mr. Norton
Mr. Davies	Mr. Sewell
Mr. H. D. Evans	Mr. A. R. Tonkin
Mr. T. D. Evans	Mr. J. T. Tonkin
Mr. Fletcher	Mr. McIver
Mr. Harman	*(Teller)*

Pairs

Ayes	Noes
Mr. E. H. M. Lewis	Mr. Taylor
Mr. Thompson	Mr. Bickerton

The CHAIRMAN: The voting being equal, I give my casting vote with the Noes.

Amendment thus negatived.

Paragraph put and passed.

Paragraph (g)—

Mr. R. L. YOUNG: This paragraph deals with the situation of the person who makes a settlement, but who retains a part interest in it. During my second reading speech I referred to a man named Cochran whose estate was taken by the South Australian taxation authorities to litigation in respect of a part interest it was claimed he held in the property which was settled on his wife, in, incidentally, 1897, or thereabouts.

I want to use this example for two reasons. Firstly, it is an indication of the fact that Commissioners of Taxation from time to time, as is their right, will use the taxing law to extract as much tax as they possibly can from estates when they think it is reasonable to do so. In this particular case the South Australian taxing authorities for some reason by the most complicated and circuitous route convinced a judge that by virtue of the fact that the deceased person had maintained a very minor interest in the settlement, the estate should have added to it the entire amount of settlement. It is all right for the Commissioner of Taxation to take that attitude because it is equally right for the man in the street to arrange his affairs in such a way that he pays the least amount of tax he can.

In the first instance I point out to the Assistant to the Treasurer that under the legislation the day will come when the commissioner will want to do those things and he will be put in the position of having

no alternative but to do so. I say categorically that under the legislation on a number of different issues and under certain circumstances the commissioner will be in a position to extract infinitely more money out of a person's estate than one would dream he had the right to extract.

I use that purely as an example, but I do want to take the opportunity once again, for the reasons I have already enumerated when speaking about paragraph (f), to move an amendment in an endeavour to delete the retrospective application of the legislation. I therefore move an amendment—

Page 12, line 2—Delete the passage "before,".

Mr. T. D. EVANS: The member for Wembley has enumerated on previous occasions—and has now renumerated—his reasons for moving the amendment. Likewise, on previous occasions, I have stated why I oppose it. I am forced to say, once again, that I oppose the deletion of the passage "before," for the same reasons I gave previously. The amendment is not acceptable to the Government.

Amendment put and a division taken with the following result—

Ayes—23

Mr. Blaikie	Mr. Nalder
Sir David Brand	Mr. O'Connor
Sir Charles Court	Mr. O'Neil
Mr. Coyne	Mr. Ridge
Dr. Dadour	Mr. Runciman
Mr. Gayfer	Mr. Rushton
Mr. Grayden	Mr. Sibson
Mr. Hutchinson	Mr. Stephens
Mr. A. A. Lewis	Mr. R. L. Young
Mr. W. A. Manning	Mr. W. G. Young
Mr. McPharlin	Mr. I. W. Manning
Mr. Mensaros	*(Teller)*

Noes—23

Mr. Bertram	Mr. Hartrey
Mr. Brady	Mr. Jamieson
Mr. Brown	Mr. Jones
Mr. Bryce	Mr. Lapham
Mr. B. T. Burke	Mr. May
Mr. T. J. Burke	Mr. Moller
Mr. Cook	Mr. Norton
Mr. Davies	Mr. Sewell
Mr. H. D. Evans	Mr. A. R. Tonkin
Mr. T. D. Evans	Mr. J. T. Tonkin
Mr. Fletcher	Mr. McIver
Mr. Harman	*(Teller)*

Pairs

Ayes	Noes
Mr. E. H. M. Lewis	Mr. Taylor
Mr. Thompson	Mr. Bickerton

The CHAIRMAN: The voting being equal, I give my casting vote with the Noes.

Amendment thus negatived.

Mr. R. L. YOUNG: I have on the notice paper another amendment to paragraph (g). The purpose of the amendment is that a person, who maintains an interest in a settlement, will not have his estate assessed for the full value of the settlement but will have his estate assessed for only the amount by which the value he receives in the case of a possible disclaimer or assignment of that part interest falls short of the actual value of the part of the interest that is being assigned or sold.

To make it as clear as I can, it is possible, under the wording of this provision, for a part interest to have been held by a deceased person throughout his lifetime. He could have held that part interest and it will be assessable under this provision even though, in fact, he may have quit the interest for an amount which may not necessarily be a completely full amount in respect of the quitting of that particular interest. I wish to overcome the problem by moving an amendment. I move an amendment—

Page 12, line 9—Delete the passage "death;" and substitute the passage "death or at any time upon full consideration in money or money's worth or for an inadequate consideration in which event the amount only of such inadequacy shall be deemed to be included in his estate;".

The Assistant to the Treasurer has already accepted the principle that the legislation should not be written in such a manner that it is possible for a person's estate to be taxed twice in respect of the original value of money or money's worth. I hope the Committee will accept my amendment.

Mr. T. D. EVANS: I cannot accept the amendment, which, in the first instance, is purely and simply to delete the word "death" to facilitate the addition of other words.

The member for Wembley has explained why he wishes to delete the word "death", which is purely and simply to enable extra words to be added. If we accept the global effect of what the member for Wembley has proposed we must come to the conclusion—at least, I certainly have—that the amendment appears to be inappropriate; because the whole clause is related to "any property" and is not related in any way to life interest.

I now come to the next point raised by the member for Wembley; namely, the inadequacy of consideration attaching to these dealings. I have already indicated to the honourable member that the Government will accept an amendment—notice of which the honourable member has on the notice paper—to subclause (5) of clause 10. The amendment proposed will deal with the situation of inadequacy of consideration of the assessment relating to settlements. For this reason I could not accept the additional words and, therefore, I cannot accept anything which will facilitate the addition of those words.

Mr. R. L. YOUNG: The Assistant to the Treasurer is quite correct inasmuch as an amendment appears under my name on the notice paper to insert a subclause (5).

When I moved the amendment a moment ago, I was not certain whether that was the additional subclause which the Assistant to the Treasurer had agreed to accept. Obviously, if the Assistant to the Treasurer is agreeable to accepting that

subclause (5), it will apply to insufficient consideration in respect of paragraphs (f) and (g). In this respect I think the Assistant to the Treasurer is correct. Will the Minister give me an indication that he will, in fact, accept subclause (5)?

Mr. T. D. Evans: Yes.

Mr. R. L. YOUNG: The Assistant to the Treasurer first commented upon the subject of property. I would like to point out that this particular paragraph refers to all of the property of a settlement. The word "property" is, in fact, a most important one. What it means is that the entire property subject to a settlement will be added to a person's estate if he retains a part interest in it.

I have never been able to work out why this pertains in certain death taxing Acts to the extent that it has done up to now. It applied in the South Australian case I quoted; namely, that of Cochran. To some extent it exists at the moment under the Administration Act.

I think we will overcome the problem if the Assistant to the Treasurer accepts subclause (5) as an addition; because, in effect, it will virtually mean that the only amount of property which will be brought into a person's estate will be the amount for which the person has not received adequate consideration. I am glad the Assistant to the Treasurer has given me this undertaking.

Amendment put and negatived.

Paragraph put and passed.

Paragraphs (h) to (j) put and passed.

Paragraph (k)—

Mr. R. L. YOUNG: I move an amendment—

Page 12, line 33—Delete the passage "before,"

This amendment is the same, in principle, as those which I have enunciated in respect of previous paragraphs. Paragraph (k) refers to the situation of a person who is a part owner of a joint annuity or a lease which passes over to a survivor on the death of the person whose estate is under consideration. The benefit which, at death, passes to the survivor under those arrangements will be added to the estate of the person who has died. Once again, the term "before," has been used.

Paragraph (k) enumerates the type of notional asset and then goes on to say—

> . . . to which any property has become subject by any non-testamentary disposition made before, on, or after the date of the coming into operation of this Act;

This is exactly the same circumstance to which I have previously referred whereby a person can, in fact, arrange his affairs in a certain way. If this legislation passes through the Parliament, some years after the rearrangement or the arrangement of those affairs that person will find that his estate will be caught.

Mr. T. D. EVANS: Again I cannot accept the amendment. I would like to offer a further explanation on this occasion as the circumstances are somewhat different. If we agree to delete the passage "before," the beneficiaries of people who die before the coming into operation of this Act—and let us assume it will come into effect on the 1st January, 1974—will have to pay succession duty on the estate. That is accepted with arrangements entered into before that date. On the other hand, the beneficiaries of people who die on or after the 1st January, 1974, will escape the payment of the duty if the arrangement was made before the date that the Act commences to operate. This situation must be seen to be completely inequitable. I will quote paragraph (a) of section 90 of the Administration Act. It reads—

> The increase of benefit—

This is dealt with under paragraph (k). To continue—

> —accruing after the commencement of this section to any person by the extinction or determination of any charge, encumbrance, estate, or interest, determinable by the death of any person, or at any period ascertainable by reference to death, to which any property has become subject by any non-testamentary disposition made before or after the commencement of this section.

So a nontestamentary disposition is material when it is made before or after the commencement of section 90. What we are doing here is to adopt what is already current law, with the exception of those estates which attract succession duty under the current law. If the event occurs within the three-year period, the present rate of death duty will be payable. However, if the event occurs after the three-year period it will not attract any duty at all under the proposed legislation. I oppose the amendment.

Amendment put and negatived.

Paragraph put and passed.

Paragraphs (l) to (n) put and passed.

Paragraph (o)—

Mr. R. L. YOUNG: This is one of the most important paragraphs in the entire legislation. I believe it should be deleted from the Bill because it has been drafted in such a way that although it appears to achieve what the Assistant to the Treasurer set out to achieve, it will do much more than that. Members on this side of the Chamber cannot accept it as reasonable legislation.

If one reads the wording of paragraph (o) one must arrive at the conclusion that it could be used as a mighty sledgehammer with which to hit the beneficiaries of a deceased person. Under this provision the beneficiaries of an estate could be called

upon to pay huge sums of money as duty on items which have no relationship to a person's assets.

On the surface the paragraph appears to do two things. The Assistant to the Treasurer did not point out in his second reading speech that the paragraph was intended to catch those people who would not now pay death duty on superannuation funds payable to a wife, dependent children, or dependent parents, but on its wording, the paragraph will certainly do this.

As was pointed out by the Assistant to the Treasurer, it will also catch people who are avoiding duty on life governor interests in private company shares. However, the provision will go so much further than this. The member for Boulder-Dundas is constantly telling me to read exactly what is in the Bill, and not to go behind it or in front of it. Let me read what the words say in respect of property which can be added to a deceased person's estate. I will leave out some of the words of the paragraph because members will see that alternatives are provided throughout. This will not affect its meaning. It says—

> (o) an amount equal to—
>
> (ii) the amount payable to any person, on or after the death of a deceased person by the operation of or pursuant to any agreement entered into or disposition made by the deceased person . . .

This provision could bring in the mortgage on a deceased person's home. Clearly, the beneficiaries would be able to claim a liability in respect of the mortgage, but if the commissioner wanted to apply the paragraph he could say, "Let us get diabolical with this fellow's estate. He has a mortgage on his home through a life assurance company. One of the terms of the mortgage is that it will become due and payable on his death." So on the wording of paragraph (o), the value of the mortgage could be added to the estate whereas it is a debt and not an asset. If the commissioner chose to take the action taken by the commissioner in South Australia in the Cochran case to which I referred, this could happen. I realise that neither the commissioner nor the Assistant to the Treasurer intends to do this, but we are not discussing their intentions. The question is if that paragraph had to be drafted to do what the Assistant to the Treasurer wants it to do, it should not have been drafted in such an inelegant way that the situation I have suggested could arise.

If it is not already a firmly established principle when drafting legislation that if we cannot catch those we want to catch without catching everyone else it is better to let a few not so innocent people escape, then it should be. I agree that at this stage neither the commissioner nor the Assistant to the Treasurer would use the provision as I have suggested it may be used, but as sure as we are here today, the day will come when a commissioner will use the provision, as I have suggested it could be used, under the direction of the Treasurer of the day.

The taxpayer has the right to take action within the law to avoid the tax. The Treasurer has the right to direct the commissioner to use the law. Because of this, it would be very dangerous to pass this particular paragraph.

I want now to discuss the philosophy behind the two things that the clause obviously will do. Firstly, I have explained to the Committee that superannuation fund payments are usually made on a discretionary basis by the trustee to the beneficiary of the deceased. Under the present legislation, such a payment is not assessable in the estate of a deceased person. The Bill now proposes to make it assessable unless it is paid to certain dependants of the deceased, and I have enumerated circumstances where other beneficiaries may well and fairly be paid by the superannuation fund. I mentioned adult children, friends, associates, partners, brothers, sisters, uncles, aunts, and cousins. Obviously this provision will enable the commissioner to assess the superannuation moneys into a deceased estate if the trustees of the fund pay the money over to people in these categories.

Secondly, in respect of life governor shares, I believe it is fair to say, as I said earlier, that the Treasurer, the commissioner, and the person drafting the legislation, have a right to draft it in such a way as to attempt to close loopholes. If the Treasurer and the commissioner believe that people may continue to arrange their affairs in such a way as to take advantage of what the Minister considers to be a loophole, they certainly have the right, and possibly the obligation, to bring forward amending legislation. What we have to ask ourselves is whether the circumstances of a life governor share are always used specifically to avoid death duty. If this is not so, has the Treasurer the right to introduce legislation which will catch every single person who has a life governor interest in a company when the aim is to catch those who use this method to avoid death duty?

The second question we must ask ourselves is whether, in the pursuit of catching people using the so-called loopholes, we have the right, as a Parliament, to say that arrangements entered into many years before in regard to setting up a family structure in the planning of a company and all the other things connected with it should come within the provisions of this legislation if the person took those actions within the law. It seems to me we have not got the right, as a Parliament,

to say that action taken many years ago by a person to arrange his affairs within the law—and very often achieved only by the payment of high legal costs—should now be caught within the provisions of this legislation.

Mr. T. D. Evans: Do you agree with the general principle of legislation to ban pyramid selling?

Mr. R. L. YOUNG: It depends on how the Assistant to the Treasurer defines pyramid selling.

The CHAIRMAN: Order! The honourable member has two more minutes.

Mr. T. D. Evans: I do not want to waste your time.

Mr. R. L. YOUNG: Perhaps I will get an opportunity later to answer that question. Having gone to that expense within the law; having set up one's affairs; having paid large amounts under the law to the State authority and to the Companies Office; having paid, in certain instances, stamp duty; having paid, in certain instances, gift duty, and having paid, in all instances, legal costs, a person is then to be told that expenditure of all that money is a complete waste, despite the fact that all his actions have been taken within the law.

From the amendments the Assistant to the Treasurer has on the notice paper I understand that in order to rearrange his affairs such a person will have a year's moratorium. However, that is not good enough for a person who has entered into an arrangement within the law to look after his estate. He should not be told months or years later, "What you have done is of no avail; you have to rearrange your affairs and you have a year in which to do that." Therefore the amendment I propose to move will be to the effect that any person who has entered into an arrangement for a life governor share issue prior to the second reading speech made by the Minister, will not be affected by this legislation.

Mr. McPHARLIN: Although the amendment to delete paragraph (o) stands in my name on the notice paper, the member for Wembley and I agreed he would be the first to speak to the paragraph. So there is no collusion in this respect.

I take the strongest exception to paragraph (o) in this clause. I agree with the Assistant to the Treasurer that some of the clauses in the Bill are sound and acceptable, but I cannot agree to the provision contained in paragraph (o). On page 19 of the explanatory notes relating to the Death Duty Assessment Bill the explanation of paragraph (o) reads as follows—

> This is a new proposal for the purposes of protecting revenue and assisting to ensure equity between taxpayers. It is to apply duty to estates which have adopted what is often described as "life governor" share technique of duty avoidance.

Following the explanatory notes on this paragraph, an example is given, and in one of the paragraphs setting out the example the following words appear—

> At any time before his death the owner the "Governor Director" share had the right to repurchase all of the other issued shares at paid up value.

The point I make is that the claim and the example given in the explanatory notes are incorrect. Anyone reading those notes would be led to believe that all company structures are arranged in that way; namely, that the owner of a governing director's share had the right to repurchase all of the other issued shares at paid-up value.

From the information that has been supplied to me, very few arrangements are made in the way that the owner of a governing director's share has the right to repurchase other issued shares at paid-up value. That information came from people who are directly engaged in the formation of companies and they emphatically deny that this type of company structure is formed. The situation may arise with some of the older companies, but no such arrangement has been entered into with companies in later years. Therefore the claim and the example given in the explanatory notes are not sound.

Also, after reading the explanatory notes on the Bill, and the Minister's second reading speech, a person would be led to believe that the formation of a family company is evil; that it is not normal for a person to arrange his affairs whereby he provides for continuity of his estate and business; that a person should not enter into an arrangement whereby such security is provided.

What this paragraph in the clause seeks to achieve is that when the life governor dies the value of the life governor share has to be brought back into the estate at the date of death. This would, of course, result in an increase in the value of the estate. These companies have been formed in accordance with the law and they have complied with the existing provisions of the law. Their directors have not committed any crime, and the overriding thought behind their actions is to provide security for the dependants they leave behind; to provide security so that a family business can continue to operate. This ensures not only the security of the family company, but also assists in the security of our economy. Such an arrangement ensures continuity of ownership in that those who remain after the death of the life governor are not required to face extreme debts and probably very high death duty.

If the provisions in paragraph (o) were brought into effect, and the prices of the commodities in which the company is involved were high at the date of the death of the life governor, and shortly afterwards the prices of those commodities decreased suddenly, the debt would be attached to the business and this would mean that the dependants of the life governor would have to face an added financial burden.

Mr. T. D. Evans: Are you not aware that there is a provision further on in the Bill that covers such a situation?

Mr. McPHARLIN: Yes, but it is left to the discretion of the commissioner. Therefore the Assistant to the Treasurer is giving the commissioner wide powers.

Mr. T. D. Evans: Is it not better for him to have that discretion than to have none at all?

Mr. McPHARLIN: I agree it is better for the commissioner to have some discretion, but we are leaving it to one man to make a decision. I know that when an assessor arrives at a valuation one can object and ask for an independent valuation, but usually the valuer employed by the commissioner has his valuation accepted. I can only hope that the commissioner will look at such cases sympathetically, but in his explanatory notes the Assistant to the Treasurer said that this provision is for the purpose of protecting revenue.

Mr. T. D. Evans: Its purpose is to protect revenue by the removal of inequities; the protection of revenue is only incidental.

Mr. McPHARLIN: The Assistant to the Treasurer may regard this as an inequity, but I am afraid I do not. The matters under consideration have been arranged legally and for good reason. Family companies have been accepted for many years and have afforded security not only for dependants but also for the business itself.

Mr. T. D. Evans: Pyramid selling has also been accepted for many years.

Mr. McPHARLIN: It is all very well to say that these people are in a sound position today; they still have to face up to fluctuating prices.

Mr. T. D. Evans: How would a wage earner get on?

Mr. Gayfer: There are many wage earners today who have life governships in family companies.

Mr. Jamieson: Watch your blood pressure!

Mr. Gayfer: Not on this one I will not.

Mr. McPHARLIN: I would suggest that many people have started their careers as wage earners and have become involved in business and when they reach this sort of situation they look for avenues through which they can protect their assests.

Mr. Hartrey: Bookmakers start off as wage earners.

Mr. McPHARLIN: Many other people have started off their careers as wage earners, including some members in this Chamber.

Mr. T. D. Evans: Some of them might be returning to that role after the election.

The CHAIRMAN: Order! I ask the honourable member to keep to the Bill.

Mr. McPHARLIN: I was about to say that the comments that have been made highlight the difference in the philosophies that are followed by members of the parties represented in this Chamber. The creation of family companies and the various arrangements that are entered into by those controlling them offers security in business and enables the companies to develop which, in turn, creates employment. I do not think it is a sound argument to say that the wage earner is not as well off as some of these people involved in companies; because if wage earners were placed in a position to grasp an opportunity created by their own initiative, work, and brains, they would immediately look to this type of structure to assist them in the conduct of their businesses.

Mr. Hartrey: It would be seldom that a wage earner would have the opportunity to set himself up in business.

Mr. McPHARLIN: I do not think the member for Boulder-Dundas believes that all members on this side of the Chamber are millionaires.

Mr. Coyne: The sign of orderly activity is a sign of an orderly mind, and there is nothing wrong with that.

Mr. McPHARLIN: From the remarks he has made I gather the Assistant to the Treasurer will not agree to my amendment, but I have discussed this paragraph with several legal friends of mine and their reaction to this type of provision is that it is so wrong that it should not be included in the Bill. These are people who have been involved in family companies for many years.

Mr. T. D. Evans: Probably involved in the very type of activity we are trying to close off.

Mr. McPHARLIN: They have established these practices, within the provisions of the law, over many years for the benefit of their families.

Mr. T. D. Evans: Would they not have an axe to grind?

Mr. McPHARLIN: It is fair enough that they should argue against the provision.

Mr. T. D. Evans: They would have an axe to grind in putting up their argument.

Mr. McPHARLIN: In saying that they would have an axe to grind—if the Assistant to the Treasurer is speaking from experience—perhaps they would.

Sitting suspended from 6.15 to 7.30 p.m.

The CHAIRMAN: The honourable member has two more minutes.

Mr. McPHARLIN: Thank you, Mr. Chairman. Before the tea suspension the Assistant to the Treasurer remarked that certain legal friends of mine, with whom I discussed the matter, might have an axe to grind.

If this Bill becomes law I should think a great deal more work will be provided for the members of the legal profession, because they will be engaged in restructuring many of the company structures that are in force today.

The impact of this legislation on self-employed people, whether they be in primary or secondary industry, will be rather severe, because other recent measures have been introduced which could also have a severe impact on them and result in additional burdens being imposed—and I refer to burdens such as death duty, etc. These could have the effect of driving a company out of business; or forcing it to sell to a larger company, thus creating corporate enterprises, and so on, which we want to avoid. We want to encourage the family company to continue.

The CHAIRMAN: The honourable member's time has expired.

Mr. GAYFER: I have cooled off a little since the tea suspension which came at rather an opportune moment! In my second reading speech I indicated that I objected strongly to this clause.

Only two second reading speeches were made from this side of the House; one by the member for Wembley and the other by myself. At the time I said that if my interpretation of what the member for Wembley said was correct then a number of farming companies were in for a very bad time.

Interjections were made across the floor of the Chamber that I was interested only in the farmer and nobody else. If I am, well, so be it. The farming company is a very important factor and we should remember this when considering a measure of this type. If other speakers want to deal with companies in general terms, they may do so; but in my opinion if this Bill becomes law it will float around the country areas like a lead balloon.

It will have more repercussions than the Government thought possible. The farming community has set up many thousands of companies which deal with the farm as a family unit. One of the ideals of the State Government when it came into office was that it would try to continue to protect family farms as family units. The Bill before us does nothing to help that cause.

We who set up farming companies did so in good faith; it cost a lot of money to do so and, included in the cost, were stamp duty, transfer fees, and so on. I explained all this in my second reading speech and I will not go into it any further. The Assistant to the Treasurer interjected a while ago and asked, "What about the wage earner?" I would like to tell the Minister that there are many people who own shares in farming companies—which have been set up for the purpose of protecting their interests in the future—who do not earn as much as the average wage earner in the normal walk of life.

It is well known to members on the other side—particularly those who are aware of the family set-up as it relates to the running of farms—that there is hardly a son of the family who draws what may be considered an average wage, particularly when we compare this with the basic wage enjoyed by those in other walks of life.

I know many wage earners who have taken up land; acquired it, and struggled to form companies in their own right. I disagree with this clause and I intend to support the member for Wembley and the Leader of the Country Party in opposing it. I may have considered it possible if it were based on some other legislation, which provided that farming companies be excluded, but I would like to see the impact on other companies.

I know the Minister intends to recommit the Bill with a view to relating this aspect to private companies 12 months after the Bill is proclaimed, or words to that effect.

Is not this tantamount to the Minister admitting that he is putting many family companies to a certain amount of trouble? Is not he indicating that he is allowing these companies time in which to put their houses in order? All we are doing here, if that is the case, is to make it possible for more revenue to be earned by legal men and by the Government by way of transfer fees and by regifting land to other members of the family; land which has been gifted in good faith under legislation which allowed this to happen.

I am definitely opposed to the whole provision and I can see no good in including it. On the morality side alone we who entered into companies under the existing law did so in good faith; and hard cash was paid to protect the farms and companies involved and the people who would eventually inherit the land. As I have said, this was done in good faith—not merely to use a loophole in the law; but to protect the family unit.

Mr. COYNE: I have listened very attentively to the debate primarily because I have had some experience in this sort of activity. I had this experience prior to my entering Parliament. Accordingly the matter interests me to a greater extent than it would one who was possibly not acquainted with the area in question.

I do not think there is anything wrong in taking action to provide against the contingency of one's untimely death.

Surely this indicates a certain amount of forethought. One of the avenues that is open to us to provide against such a contingency is by using life assurance, and of course, the other aspect is that which relates to the provision of life governorship.

I think the move of the member for Wembley to delete the word "before" is reasonable. I only wish I had studied the provisions of the Administration Act more thoroughly while I was acting as a life assurance representative, because I feel I have learnt a great deal in the short time the Bill has been before us. Had I a better grasp of the Administration Act I would probably have been able to make a far better contribution.

Mr. Harman: You might go back to life assurance.

Mr. COYNE: I do not think so. During the 11 years I acted as a life assurance representative, I never had the temerity to call myself a life assurance consultant. We must face up to the fact that sooner or later we will die, and if it is possible to make worth-while provision while one is alive, it makes it so much easier for those who follow.

I applaud anybody who takes the necessary action and creates a programme of benefit that will flow to those who will come after.

There seems to be a lack of interest in this matter from members on the Government side; they do not seem to be too concerned about these things. The matter is, however, most important.

I would like to relate a personal experience concerning my time as a life underwriter. I received a telephone call from a man in Scarborough who asked me if I would call around and have a look at his life assurance programme. He was a personal friend of mine and he told me the circumstances which led to his inviting me out.

His two uncles had a little farm in the hills which they used to visit every weekend. On these occasions they would take the opportunity to develop the farm and see what fencing was necessary, etc. On the day in question one of the brothers hopped on the back of the tractor, and as they were moving off the other brother said, "You have left the shovel behind." He jumped off the tractor, picked up the long-handled shovel, and when he turned around he found that the tractor had turned over and crushed his brother who, of course, died. Sad though this incident was, it was gratifying to know that the brother who died—incidentally, he was a lecturer at the Institute of Technology—had everything taken care of.

The man left a letter of instruction to his wife setting out the whereabouts of his policies so that she was well cared for. This had such an effect on the brother that he decided to do the same thing. These are the normal duties of a life underwriter; I am not trying to give the industry a plug. I consider the industry will face many problems when the Federal Minister removes the tax concessions and moves into other fields of life assurance.

Mr. Brady: They have had a good time up to now, have they not?

Mr. O'Connor: What about the policy holders?

Mr. COYNE: The point I want to make is that this particular debate started when the member for Mt. Hawthorn replied to the member for Wembley.

The CHAIRMAN: Order! With all due respect, we are in Committee. I have been fairly tolerant, but it would be better to stick to the contents of paragraph (o) of subclause (2) of clause 10.

Mr. COYNE: It seems it is abhorrent to members from the other side of the Chamber that anybody should make provision for such a contingency, and that life governorships and life policies are methods by which people can do something within the law.

Mr. R. L. YOUNG: The effect of paragraph (o) when combined with subclause (6), is to catch everyone. It is obviously designed to make the life governor share situation one which will come within the ambit of the main notional property provisions of the Act. It will also catch superannuation funds. Subclause (6) will allow the commissioner to determine whether or not a life governor share comes within the ambit of the proposed legislation, and to what extent it will come within the ambit of the legislation. I have an amendment on the notice paper but I also give notice to the Assistant to the Treasurer that notwithstanding the fact that the amendment may be agreed to, I intend to move for the deletion of paragraph (o) and subclause (6). Under the provisions of subclause (6) the estate will be assessed according to the very worst position the life governor could have created for the other shareholders had he exercised all the powers, rights, and privileges that he had by virtue of his shareholding just prior to his death.

One gets the impression that whoever drafted the Bill took the attitude that the life governor of a private company sets out deliberately and diabolically to obtain absolute control for one purpose only; that is, to avoid death duties.

The plain fact of the matter is that private companies are the bulwark of the Australian commercial and farming economy. Major companies spring from the private companies, as does most of the economic development which takes place in this country. A company is just

an artificial structure set up by virtue of the laws we make, but it is the men involved who do the work and build the economy. Invariably, a private company consists of one or two men who are prepared to go out and work on a farming or a commercial venture, and they put everything they have into it. They build up the activities of the private company to the stage where it contributes to the way of life which we enjoy.

Where one man is the key to the company, that man naturally desires to retain some control. Many people do not realise that the economy of this country is not only built on private companies, but is also dependent on the individuals who are behind them. On many occasions it is impossible to sell private companies because they are so dependent on the governing director for their running.

The Government has taken the attitude that the governing director situation is no different from that in which a man owns a great deal of machinery, or something similar, in his own right. However, it is a completely different situation because the person who owns his entire productive capacity, in his own right, rather than forming a company, is usually some sort of individualist and somebody who is not prepared to make provision for a continuation of business growth after his death.

As a rule a private company is formed around the family of one individual, and that individual usually takes control until such time as his family or his associates are able to take over.

I do not for one moment deny that there are tax advantages and probate advantages in the formation of a private company, on a governing director share basis, but that is not what we are debating. We are debating the right of an individual to form an economic unit upon which the whole economy is based within our community, and to do so within the law.

No-one questions the right of the Government to introduce legislation in accordance with its philosophy, as long as the Government states that from that time of introduction certain procedures will not be right, but we do question the right to go back and make laws retrospective. The fundamental point we have been discussing is the right to go back and say that notwithstanding the fact something has been done within the law the situation will be changed so that all estates will be affected, despite the fact that those arrangements may have been entered into years ago.

The CHAIRMAN: The honourable member has one minute.

Mr. R. L. YOUNG: We cannot tax people almost out of existence during their lifetime, and deny them the right to arrange their affairs in such a way that the Government will not take the biggest share of the assets of the estate thereby destroying the capital which has built up the income. Therefore, I move an amendment—

> Page 14, line 17—Delete the passage "not;" and substitute the passage "not, but excluding any interest in a company which shall have been acquired by the deceased person before and held by the deceased person on the eighteenth day of October one thousand nine hundred and seventy-three;".

The purpose of the amendment is to make sure that those people who have already entered into this arrangement will be left untouched. The measure will then be a *caveat* for people who may want to do something similar at a later date.

Mr. T. D. EVANS: I feel it is desirable, even at the risk of repetition, to state very briefly and quite succinctly the main philosophy behind this legislation; because this clause highlights the reason that steps are being taken to remove what the Government classes as areas of inequity.

Briefly, the legislation is to extend the concessions by doubling them generally, right across the board so that all taxpayers —if I might refer to estates as taxpayers for simplicity purposes—will benefit from the extension of the concessions. This is accepted by all.

Mr. R. L. Young: The Assistant to the Treasurer has used this argument against every piece of bad drafting in this Bill.

Mr. T. D. EVANS: I do not concede that there is any bad drafting in the Bill at all. There is a determination and a resolve, on the part of the Government, to provide equally, as far as is possible, for all taxpayers to be able to arrange their affairs within the guidelines set by the law to avoid or minimise the incidence of death duty, as distinct from evading death duty.

Mr. O'Connor: But the Government is likely to change the system next year.

Mr. T. D. EVANS: Apparently the member opposite does not want to hear what I have to say.

The CHAIRMAN: Order!

Mr. T. D. EVANS: That is the philosophy behind the legislation. The provisions of the paragraph will apply to all types of duty assessments where arrangements have been made.

Mr. W. G. Young: It will be retrospective.

Mr T. D. EVANS: Arrangements have been made so that on the death of a person a benefit flows to another person and death duty is avoided. If that particular facility and recourse to that type of arrangement or device were available to all taxpayers, I would not be putting up this provision.

Mr. Coyne: It is available to all taxpayers.

Mr. W. G. Young: It is available now.

Mr. T. D. EVANS: The Leader of the Country Party agreed tonight that it was not available to a wage earner, as a wage earner. Members may care to find out the difference. I make the point that this paragraph of clause 10 applies to all types of death duty assessments under those circumstances. It does not apply only to life governor shares, although it would have application in that area.

Mr. Coyne: You will take it from the worker because superannuation will come into it.

Mr. T. D. EVANS: I also make this point, that paragraph (o) will apply only to a relatively few people; and to the estates of the majority of people who die after the 1st January, 1974, a distinct benefit will flow.

Mr. R. L. Young: If it is totally unjust, does it matter that it applies only to one person?

Mr. T. D. EVANS: I will quote some figures which were taken out by the Commissioner of State Taxation. Taking the statistics of assessed estates for 1972-73, the figures show the position in three groups; namely, estates with a net value of $60,000 or less totalled 4,260, those between $60,000 and $150,000 totalled 297, and those above $150,000 totalled 67. Of the group with an assessed net value of less than $60,000, 3,875 have a net value of $30,000 or less and will pay no death duty at all, in most cases, under the proposed new legislation.

We are now coming to the life governor shares. Three estates located by the Commissioner of State Taxation—without specific selection, he assures me—with life governor type share arrangements show net values of $447,000, $71,000, and $178,000 respectively.

I would like to clear up what I regard as a misconception in regard to farmers, and I have some figures. It was stated that the closing of this avenue of avoidance—and I use the term "avoidance" because I do not want to be labelled as having said that in the past farmers have evaded tax—was aimed specifically at farmers. I therefore asked the Commissioner of State Taxation to check the farming estates assessed during the three months ended September, 1973. As this Bill was introduced on the 18th October, sufficient time has elapsed for these figures to be taken out. The total number of estates assessed in that period was 1,365. Of those, 21 were estates of farmers. The term "farmers" includes pastoralists, graziers, and market gardeners, so it has been fairly broadly used. Of those 21 estates, eight were sole traders with no life governor shares, 13 were in partnership, and none had proprietary company arrangements—not one.

Mr. W. G. Young: Why did he not take out figures for the previous 12 months?

Mr. T. D. EVANS: A similar survey over a period of three months in 1971 revealed that 34 farming estates were assessed, of which 14 were sole traders, 19 were partnerships, and one was a proprietary company.

Mr. W. G. Young: Why not over 12 months?

Mr. O'Neil: Why not one day?

Mr. T. D. EVANS: I conclude by indicating that the Government does not accept the amendment moved by the member for Wembley, and it certainly does not intend to go along with the move by the Leader of the Country Party to delete this clause. However, I want to make the point that the member for Wembley sought by his amendment to exclude those persons who are still alive but who in the past have made these arrangements and are destined to die on or after the 1st January, 1974, so that on the date of death after this proposed law comes into operation their assets will be excluded.

But what about the poor, unhappy character who made an arrangement—or who could still make an arrangement, because ignorance of the law is no excuse—after that date, when the law will be applied with complete vigour in respect of him?

Mr. R. L. Young: He knows what the law is.

Mr. T. D. EVANS: In trying to overcome an evil, the Opposition is proposing to perpetrate a greater evil.

Mr. R. L. YOUNG: If ever I heard a Minister condemn himself out of his own mouth, it was just now. The Minister quoted figures to indicate that over a three-month period 1,300-odd estates were assessed for death duty, 21 of which were the estates of farmers, among which there were no life governor type arrangements. If the Minister used those figures in order to say that under certain circumstances, across the board, so few people would be caught by the legislation—

Mr. T. D. Evans: That is the point I did make.

Mr. R. L. YOUNG: And that is the point which hangs the Minister because if we are introducing in this place legislation to catch the odd one or two—

Mr. T. D. Evans: We are introducing legislation to provide equity for the many.

Mr. R. L. YOUNG: The Minister says we are introducing legislation to provide equity for the many.

Mr. O'Neil: What many? Many do not pay at all.

Mr. R. L. YOUNG: In this place we are supposed to be enacting legislation which is fair for all, not for the many. The Minister said the wage earner could not arrange his affairs in such a way. In most circumstances, the wage earner does not need to do so. He can arrange his affairs, within the law, in any way he wishes.

The Minister concluded by asking what happens to the poor, unhappy character who arranges his affairs after the commencement of operation of this legislation in such a way as to take advantage of life governor shares. The plain fact of the matter is that the poor, unhappy person is doing something knowing what the law is. The people to whom I have referred have done something knowing what the law is and, notwithstanding that those arrangements were entered into three or four Governments ago, the Government of today says, "You entered into those arrangements within the law but we are going to change the law."

It is like changing the rules half-way through the game because one does not like the other chap being in front. The fact of the matter is if they are playing within the rules of the game and one side is bigger and stronger and having a win at the time, one does not alter the rules half-way through the game.

There is plenty of opportunity for the Government to amend the law. We are not denying the Government the opportunity to amend the law, provided it does so in a more reasonable way. It is not fair to go back on people's estates and simply say, "That is bad luck; we know you acted within the law but we have changed the rules of the game."

Mr. B. T. Burke: Do not talk rubbish. They can change their arrangements once the law is changed. That is the biggest load of rubbish I have ever heard.

Mr. R. L. YOUNG: The member for Balcatta has made his second speech. If we came into Government next year—which is very likely—and said we were going to reverse the contract on the Trades Hall building, and we introduced a special Bill to change that contract or to make it legal to cancel the contract which was entered into on a rotten basis, would the members on the other side say, "Fair enough"? It would not be fair enough because it is a contract—rotten though it may be—which was entered into by a Government and we would honour it, although we would hate doing so.

According to the attitude of the member for Balcatta and the member for Boulder-Dundas, we are expected to go along with legislation which changes the rules later on because it suits the Government of the day to do so.

Mr. Hartrey: Every law changes the rules.

Mr. R. L. YOUNG: Laws change but we cannot change contracts or arrangements to which we are totally and absolutely committed. When one is totally, absolutely, and irrevocably committed to a certain line in business and one's money has gone, the Government of the day has no right to change the laws. We have heard from the other side about retrospective taxing laws. We have also heard that in certain taxation matters Governments of our colour have changed the laws after the event, but that is not a fact. We have never done that and we never would do it. Members who made those accusations have not been able to produce one example in the four or six weeks which have elapsed since this Bill was introduced. That is not the way we play the game, and it is not the way any Government should play the game. It is not the way in which the members on the other side would like us to act next year.

Mr. Hartrey: It is not a game.

Mr. R. L. YOUNG: It is a game when it is played like this, and a fairly rotten game. It is a game when one looks on taxation laws in the cavalier manner in which the Government of today is looking on them. It is not serious—and the member for Boulder-Dundas knows it—when the Minister of the day refuses to accept matters of absolute fact which have been put forward from this side of the Chamber time after time in debate and in the Committee stage of the Bill, and gets up time after time justifying the drafting of the Bill on the basis that it contains only one concession to the public.

Several members interjected.

The CHAIRMAN: Order! Members will keep order! It is a difficult Bill and we are having a great deal of trouble with it. Members will keep order!

Mr. R. L. YOUNG: As far as our taxation affairs are concerned we must act within the law. The law is the only thing we have to go by. If people arrange their affairs within the law that we have drafted, then it is not their fault that we have drafted the law badly. We have been drafting bad laws—and this one is as bad as any I have seen—for many years and the people in the community who live under those laws are entitled to act within them. But we cannot go back and change the law retrospectively any more than a taxpayer can.

We have written the laws so let us stick with what we have done. If it is necessary to change them we should do so, but without giving the new law retrospective effect. We should say, "We do not like the way this law is drafted, so we will change it and from now on anyone entering into an arrangement such as this will know what the law is and would be a fool to

enter into the arrangement." But it is absurd to say that we have the right to go back and change the law so that things which were done within the law then become outside the law.

The member for Boulder-Dundas does his image no good at all by trying to defend this move, because it is a bad way to frame legislation. To try to justify the provision on the basis that only a few people will be caught by it is one of the worst bases of justification I have ever heard. Everyone has the duty to respect, and work within, the law—including the Commissioner of State Taxation. When we come to a later clause many of the arguments presented from this side will have to be presented from the Government side.

The CHAIRMAN: The member has one more minute.

Mr. R. L. YOUNG: Thank you, Mr. Chairman. People have the right to enter into arrangements which are within the law. The taxpayer has not the right to go back on the commissioner; so why should the commissioner have the right to go back on the taxpayer? The taxpayer cannot go back on the commissioner just before his estate is due to be taxed according to the law; so we as a Parliament should not give the commissioner power to reassess the affairs of a taxpayer in such a way that the taxpayer cannot do anything about it. I think the Assistant to the Treasurer and the member for Boulder-Dundas know that but will not admit it.

Mr. O'CONNOR: I wholeheartedly support the amendment and the remarks of the member for Wembley. The case presented by the Assistant to the Treasurer is the weakest I have heard him put forward, and indicates the weak ground on which he is standing. He said that people can use this new law as a basis for preparing for their future. Surely that is exactly what people have done in the past under the existing law. Many of them will not have time to reorganise their affairs to give their families a fair deal.

Consider, for instance, an elderly person who has a son who has been crippled in a car accident. What can that person do now to provide a reasonable future for his son? Under this retrospective legislation he will be able to do very little because if he dies within the next two or three years his assets will be assessed under this new law even though he acted in accordance with the existing law. The law could be changed again—it can be done so quickly.

The Assistant to the Treasurer said that a person can base his future on the law we are making now. How can people have faith in the law we are making when we are now proving we can change it completely and with retrospective effect so that arrangements made in the past will not have any effect? If the Government can do this now in one fell swoop, what can it do in the future? Will it allow people to make arrangements over the next few years and then change the law again to catch them? I think it is unfair and unjust to make this provision retrospective.

I believe the member for Wembley has done a good job in putting forward the case for these people, and we appreciate his fairness and clarity. As he said, this is a rotten piece of legislation and it is unfair to those who have arranged their estates so that their families will receive the benefit; that benefit will now be taken from them. I have no hesitation in supporting the amendment, and I hope Government members will see how unfair the provision is and do the same.

Mr. McPHARLIN: I rise to support the amendment moved by the member for Wembley. He wishes to exclude from the Bill the provision relating to an interest in a company which was acquired by a deceased person before the 18th October, 1973, which I believe is the date the Bill was introduced. I would like to refer to the figures produced by the Commissioner of State Taxation and quoted by the Assistant to the Treasurer in regard to farming properties and those which are sole traders and those which have a life governor share.

If figures were compiled of the probate paid within a year, even though the number of farming estates involved may not be great I think we would find that they produce a high percentage of the total revenue. This has been proved before not only in connection with State probate duty, but also Commonwealth estate duty.

The Assistant to the Treasurer has continually referred to advice given to him by the Commissioner of State Taxation. I have the greatest respect for the commissioner and I feel he is a most efficient officer; but amongst the foremost of the requirements of his job is the collection and protection of revenue, and I think perhaps he could be giving preference to its protection.

The member for Wembley mentioned subclause (6) and referred to the powers it gives to the commissioner. We will debate that subclause at some length when we come to it. It gives the commissioner considerable powers in respect of life governor-structured shares upon the death of the governing director.

I think members on the other side have accepted the comments of the Assistant to the Treasurer in respect of the legislation without studying the Bill in detail and giving thought to the impact of this provision. However, with the exception of the member for Boulder-Dundas, they have shown a lack of knowledge of the matter.

I believe this argument comes back to the difference between the socialist and the private enterprise philosophies, and some members on the other side have not a complete understanding of what is involved in the building up of a private enterprise. They do not understand the work and effort that goes into it. Perhaps this Chamber would have done more justice to the measure had members opposite studied it in more detail. Had they done so they may have adopted a more agreeable attitude.

The Assistant to the Treasurer has indicated he will not agree to the amendment. However, if he does not propose to agree to the deletion of paragraph (o), I think he should reconsider his decision and allow this exemption in respect of interests acquired by a deceased person before the 18th October. After that date, of course, the legal profession will be working on a method to assist these estates. I suppose it is possible they will find a method to do so, but it will be costly for people to restructure their companies because they must pay legal and other fees. If this measure reaches the Statute book its effects will be far-reaching. I support the amendment.

Mr. A. A. LEWIS: I rise more in sorrow than in anger.

Mr. T. D. Evans: That is not original; you have said that before.

Mr. A. A. LEWIS: After hearing the argument advanced by the Assistant to the Treasurer that is the sort of comment I would expect from him.

The CHAIRMAN: We will not become involved in that. We will keep to the amendment before the Chair.

Mr. A. A. LEWIS: I hope I can, Sir. The Assistant to the Treasurer said that he wanted to make all people equal. I wonder whether he is sharing his salary with the member for Mirrabooka so that they will be equal.

Mr. A. R. Tonkin: What has that to do with the amendment?

Mr. T. D. Evans: I would not mind doing that if he shared my work.

The CHAIRMAN: Order! This has nothing to do with the amendment before the Committee. We must keep to the amendment.

Mr. A. A. LEWIS: Let us consider the purpose of this provision. The Assistant to the Treasurer has admitted that basically it hits at a few people. The Minister quoted two quarterly periods involving life governor shares. In one period there was one such case, but in the other period there were no cases at all. If the Minister is serious in pushing his point, then he is saying that to catch one person in two quarterly periods he should fly his kite of philosophy, regardless of anything else.

To apply the law retrospectively to people who have made arrangements in the past is not fair. I wonder what the people will think about this proposal. The farmers comprise only one sector of the public who will be affected by this retrospective provision.

Laws are supposed to be just. I heard some interjection from a member opposite to the effect that the law could change and contracts could change, but I do not think he believes that in this case it is just for the change to be made. If it is not just then the Minister is pushing his arguments on the retention of this paragraph just for the sake of his philosophy, without any gain to the State. In my view his arguments are the poorest I have heard either from him or any other Minister in this Chamber. They did not indicate why this particular provision should be included in the Bill, and why the amendment moved by the member for Wembley should not be supported.

It is a simple matter to leave all agreements which have been made up to the time of the introduction of this measure as they are; and from that date to apply the legislation to future agreements. When the Minister mentioned a number of estates he did not quote figures which were of much use. The kind of figures I would like to see should relate to the number of life governor shares which exist in this State.

Mr. T. D. Evans: You can make a search in the Companies Office for yourself.

Mr. A. A. LEWIS: It would be preferable for the Assistant to the Treasurer to do that.

Mr. T. D. Evans: You can do that like anybody else.

Mr. A. A. LEWIS: I would do that if the Minister would share his salary with me.

Mr. T. D. Evans: You would not be capable of doing my work.

Mr. A. A. LEWIS: The Minister should produce arguments to prove his case. He has condemned his proposal by saying that in two quarterly periods there was only one case of a life governor share.

Mr. B. T. Burke: The member for Wembley says that is not important. He says if there is injustice in one case, it is just as bad as injustice in 100 cases.

Mr. A. A. LEWIS: The honourable member will have the opportunity to speak to the amendment if he wishes. The philosophy embraced by the Minister hits at the person who has built up his assets, and has lived at a lower rate than the basic wage for many years.

Mr. T. D. Evans: That is fantasy.

Mr. A. A. LEWIS: The Minister's interjection indicates that he has no idea about this. He wants Big Brother to feed, clothe, and do everything else for him. He does

not realise that some people have ambition and a desire to go ahead; and that they are prepared to make sacrifices to that end. The Minister wants everything to be as equal as possible, and he wishes to denigrate those who have made this State of ours.

Mr. T. D. Evans: No, I want to lift the people who have made the State.

The CHAIRMAN: Order! We are dealing with the amendment moved by the member for Wembley for the deletion of the passage "not;".

Mr. A. A. LEWIS: I thought that through the tolerance of the Chair I would be able to traverse the whole field and answer some of the arguments that have been brought forward. The basic philosophy talked about by the Minister is one which forgets about the average, independent Australian who wants to get on and to do something for himself.

If this Chamber were the House of Commons, in which there are some members who have been fed with the silver spoon since childhood, I could see some reason for the Minister's argument. In this vital new State the Minister is trying to introduce class distinction through this measure. This shows he does not grasp what makes Western Australia tick.

Amendment put and a division taken with the following result—

Ayes—22

Mr. Blaikie	Mr. Mensaros
Sir David Brand	Mr. Nalder
Sir Charles Court	Mr. O'Connor
Mr. Coyne	Mr. O'Neil
Dr. Dadour	Mr. Ridge
Mr. Gayfer	Mr. Runciman
Mr. Grayden	Mr. Sibson
Mr. Hutchinson	Mr. Stephens
Mr. A. A. Lewis	Mr. R. L. Young
Mr. W. A. Manning	Mr. W. G. Young
Mr. McPharlin	Mr. I. W. Manning

(Teller)

Noes—22

Mr. Bertram	Mr. Hartrey
Mr. Brady	Mr. Jamieson
Mr. Brown	Mr. Jones
Mr. Bryce	Mr. Lapham
Mr. B. T. Burke	Mr. May
Mr. T. J. Burke	Mr. McIver
Mr. Cook	Mr. Norton
Mr. H. D. Evans	Mr. Sewell
Mr. T. D. Evans	Mr. A. R. Tonkin
Mr. Fletcher	Mr. J. T. Tonkin
Mr. Harman	Mr. Moiler

(Teller)

Pairs

Ayes	Noes
Mr. E. H. M. Lewis	Mr. Bickerton
Mr. Rushton	Mr. Taylor
Mr. Thompson	Mr. Davies

The CHAIRMAN: The vote being equal, I give my casting vote with the Noes.

Amendment thus negatived.

Mr. McPHARLIN: As the amendment of the member for Wembley has been defeated I would urge members to vote against paragraph (o). Adequate arguments have been put forward to indicate the paragraph should be deleted, and to cover the same ground again would be mere repetition.

However, I wish to make one or two points briefly. This provision will have considerable impact on the self-employed persons in primary and secondary production. These people have already been hit hard by increased company tax and by the withdrawal of certain concessions. If paragraph (o) is agreed to it will impose an additional burden on those people. For that reason I shall move for its deletion.

The CHAIRMAN: The honourable member does not have to move to delete paragraph (o). He can vote against it.

Mr. R. L. YOUNG: Some members might not have read paragraph (o) completely, so I shall refresh their minds as to what the provision is capable of doing. In the course of my second reading speech the Premier interjected and said he did not believe that what I claimed paragraph (o) could do could, in fact, be done. At that time I was speaking specifically about superannuation.

No doubt the Premier is now aware from the statements I have made, from his own investigations, and from the comments of the Assistant to the Treasurer that what I have said is correct, and that all superannuation schemes under which the trustees have a discretionary power to make payments to other than certain dependants as set out in the Act would come under this legislation. I take it the Premier agrees that is what this legislation will do.

Mr. T. D. Evans: You know I have indicated that under certain circumstances which have yet to be determined I am prepared to ameliorate the effect, as far as it relates to superannuation schemes.

Mr. R. L. YOUNG: The circumstances have not been determined, but they will be at a later time. The time comes when we should be told the situation and I was waiting for that interjection because it is necessary that the Committee should know that following the discussions on the Bill the Government is now of the opinion that certain amendments may be necessary. I will be moving one myself later, but whether or not it is accepted is another question. I wanted to make it clear that what I said, and this the Premier doubted, was, in fact, the case.

The second point I wish to make clear in respect of the major argument concerning the governing director shares is that paragraph (o) must be read in conjunction with subclause (6) which states—

> (6) Without limiting the generality or operation of paragraph (o) of subsection (2) of this section, where—
>
> (a) immediately before the death of a deceased person he and another person each held an interest in the same body, corporate or unincorporate; and

(b) immediately before the death of the deceased person the rights attaching or existing in relation to any of the interests of the deceased person in that body were different in any respect from any of the rights attaching or existing in relation to the interests of that other person in that body—

The next portion is the interesting part and is the part to which I object when it is read in conjunction with paragraph (o). The subclause continues—

—the difference between the actual value of all that other person's interests in that body immediately after the death of the deceased person and the least value that those interests could have had immediately before the death of the deceased person if the deceased person had then exercised the rights attaching or existing in relation to his interests in that body to the greatest possible disadvantage of that other person, shall be deemed for the purposes of paragraph (o) of subsection (2) of this section to be a benefit which accrues to that other person.

Under that provision the governing director share will be valued according to the worst possible thing under the powers of memorandum of association he could have done to all the other shareholders of the company.

As he has done in respect of other clauses, the Assistant to the Treasurer may say that the provision is necessary because we are out to catch the one or two people involved; but the plain fact of the matter is that, read in conjunction with subclause (6), the provision means that when the estate is assessed it will be assessed as if the person had taken certain action to the worst possible detriment of everyone else connected with the company. His estate will be so assessed irrespective of the fact that he did not take such action. This is the principle in the legislation to which I object most; that is, the presumption that a person will act in the worst possible way.

The most important point to keep in mind in this regard is that there are, in fact, companies which are holding companies and have very large interests in large concerns, and the money is of no real consequence to the owner because he is a very wealthy man and he may have set up his estate in such a way as to avoid probate duties. But there are many other companies which are designed under exactly the same memorandum and articles of association, but those companies indulged in the governing director routine merely for family purposes, planning purposes, or, sometimes, capital raising purposes. Consequently to assess such an estate in accordance with the presumption that at all times the governing director would act to the greatest detriment of everyone else connected with the company is, in my opinion and in the opinion of everyone on this side of the Chamber, totally immoral.

I have raised this point because I believe we cannot read paragraph (o) without reading subclause (6), and it is important that the contents of subclause (6) be known before the vote is taken on paragraph (o).

Mr. W. A. MANNING: I do not think members on the Government side, and particularly the Assistant to the Treasurer, really understand that if this paragraph remains in the Bill many unknown people will suffer financially. I refer to "unknown people" because no-one knows who will die shortly after the legislation is proclaimed.

The word "plan" is included in the paragraph. I am sure that most members opposite have some sort of a plan which could be affected. We do not know who will be affected because we do not know who will die, yet the Assistant to the Treasurer cannot see that the paragraph will react unjustly on innumerable people. He will not consider the deletion of the paragraph. It is entirely wrong that a person who has the responsibility of a Bill of this kind will not take cognisance of the statements made by those on this side, and the facts submitted to him. All he has done is to answer with some sort of philosophy. However, when we get down to tin tacks we realise that many people will be hurt, and the Assistant to the Treasurer will not recognise this fact. These people will be hurt unjustly because they have already made arrangements which cannot be changed in five minutes. Even when they can be changed, it is a costly business.

It is time the Assistant to the Treasurer demonstrated an inclination to recognise the facts we have presented to him and agreed to the deletion of the paragraph.

Paragraph put and a division taken with the following result—

Ayes—22

Mr. Bertram	Mr. Hartrey
Mr. Brady	Mr. Jamieson
Mr. Brown	Mr. Jones
Mr. Bryce	Mr. Lapham
Mr. B. T. Burke	Mr. May
Mr. T. J. Burke	Mr. Moller
Mr. Cook	Mr. Norton
Mr. H. D. Evans	Mr. Sewell
Mr. T. D. Evans	Mr. A. R. Tonkin
Mr. Fletcher	Mr. J. T. Tonkin
Mr. Harman	Mr. McIver
	(Teller)

Noes—22

Mr. Blaikie	Mr. Mensaros
Sir David Brand	Mr. Nalder
Sir Charles Court	Mr. O'Connor
Mr. Coyne	Mr. O'Neil
Dr. Dadour	Mr. Ridge
Mr. Gayfer	Mr. Runciman
Mr. Grayden	Mr. Sibson
Mr. Hutchinson	Mr. Stephens
Mr. A. A. Lewis	Mr. R. L. Young
Mr. W. A. Manning	Mr. W. G. Young
Mr. McPharlin	Mr. I. W. Manning
	(Teller)

Pairs

Ayes	Noes
Mr. Taylor	Mr. E. H. M. Lewis
Mr. Bickerton	Mr. Rushton
Mr. Davies	Mr. Thompson

The CHAIRMAN: The voting being equal, I give my casting vote with the Ayes.

Paragraph thus passed.

Paragraph (p)—

Mr. R. L. YOUNG: This paragraph is an extension of the provisions of the Administration Act in respect of what is known as a gift or gifts *inter vivos* which are gifts made during the lifetime of the deceased person.

The paragraph is included to cover what is known as the Gorton type of company. Gorton was a taxpayer who entered into transactions within a company in which the structure was changed so that the true ownership and true effective control of the assets were transferred to other people by virtue of a number of transactions within the company, by issuing certain classes of shares.

I do not take exception to the fact that the Minister has attempted to amend the law in respect of that type of transaction in the future. There is nothing more clear than that that type of transaction is entered into with no other purpose in mind than to divest an owner of certain assets during his lifetime. The transaction could not have been entered into on any other basis, as evidenced by the fact that the various State Commissioners of Taxation quite rightly assess the companies, at the time they issue certain ordinary shares that are part of the series of transactions, on stamp duty at the gift duty rate.

My objection to the paragraph is not in respect of what the Assistant to the Treasurer is attempting to do in connection with future transactions. My objection is that people who have entered into such transactions in the past have, in fact, contributed a large amount of money to the State coffers already by virtue of these transactions. They entered into these transactions and paid gift duty at the rate which I think even the Assistant to the Treasurer, and the Treasurer will admit is very high under the gift duty provisions of the Stamp Act. Those provisions were written in by the Liberal-Country Party Government when it was in office, and the rates were criticised at the time by a number of people who did not like them; but we introduced them, anyway.

The people who have entered into this sort of transaction have paid large slices of gift duty under these provisions. In addition to that I refer to the amount of $2,000 which is normally allowed to a person's estate—as a result of gifts made during that person's lifetime—as a flat deduction from the estate if such gifts exist. This will not be allowed under these provisions.

Under some circumstances many thousands of dollars may have been paid and I do not deny that these arrangements could have been entered into purely to avoid probate duty. That money will not be allowed to the deceased person's estate under the provisions of the new measure if, in fact, the arrangements under paragraph (b) are included in the person's estate, notionally.

Consequently, I do not intend to move an amendment to the paragraph. I suggest to the Assistant to the Treasurer that the Bill will need to be recommitted for different reasons. During the time which elapses between the Committee stage and the recommittal stage, I suggest that the Assistant to the Treasurer could consider that this is one case whereby the State will have had a fair shake out of the estates of people anyway. To double the taxation by catching them under this taxing provision, without any warning, could, in fact, be something which the State Government does not intend to do.

Mr. T. D. Evans: You are aware of course that a later provision enables the commissioner to take into consideration stamp duty which has already been paid?

Mr. R. L. YOUNG: Yes, but I do not think the commissioner is entitled to do that under this provision. This is my reason for raising it. In this case the stamp duty is paid by the company and not by the person whose estate would be subject to duty. This is why I do not think the commissioner will have that power.

Mr. T. D. Evans: I think he will have.

Mr. R. L. YOUNG: He may have. I suggest that the Assistant to the Treasurer should look into this matter thoroughly. An attempt should be made to provide that any transaction of this kind which has been entered into previously should be exempted from the provisions of the legislation on the basis that the State has already received a fairly healthy slice of the person's estate.

In one respect it is an interesting switch. In years gone by the Commonwealth profited a great deal from pay rises by the States. Canberra has collected millions and millions of dollars in income tax from the State Treasuries every time there has been a pay rise. The States pay the money and immediately Canberra takes it back. Under the provisions of this measure there will be a switch because, for the first time, it would appear that transactions entered into by people in arranging their affairs will, in fact, have the reverse effect when the full ramifications of the measure are known. In fact, the Companies Office and the Commissioner of State Taxation will receive a fairly good rake off from transactions to avoid income tax entered into in the past. Those transactions would have robbed the Commonwealth in years gone by but the State will now receive the benefit of them. If we

look at it from the point of view of the State, that is not a bad thing. However, from the point of view of the individual, this is something which the Assistant to the Treasurer should look at closely in order to see whether or not the State has already had its fair share out of some of these arrangements.

Mr. McPHARLIN: An amendment to delete the paragraph appears under my name on the notice paper. I support what the member for Wembley said. When property is sold to a company, stamp duty and subsequently gift duty is paid. These are not small amounts of money and they must be paid.

Everything possible has been done by the principal person—who may be the owner or the life governor—to divest himself of his property. He puts it into the form of a company and retains an interest in it, of course, by virtue of the life governor share.

In many companies, the life governor—or the controller—does not have the right to buy back all the shares at the value at which they were bought.

Mr. T. D. Evans: We are dealing with gifts.

Mr. McPHARLIN: All right. Gift duty is paid on the amount which has been given to the company and to the shareholders. There are controlling shares and ultimately these pass to the other shareholders. The controlling shareholders can die as can the other shareholders. This could create problems.

Let me refer to paragraph (p). If the controller has modified his rights before death to diminish the value of the property in his name—and this is mentioned in paragraph (p)—whether or not the value of the property has been directly or indirectly diminished, this will be brought into the estate provided he has done this within three years prior to his death.

This is rather unfair and it is the reason I put the amendment on the notice paper. I wish to delete paragraph (p) which follows on from paragraph (o). The paragraphs, following one upon the other, will make the impact greater if the measure becomes law. If we delete one, it would be advisable to delete the other.

I hope the Assistant to the Treasurer will look closely at this and investigate it in detail to see whether there is substance and merit in the suggestion to delete the provision.

The amendments were not put on the notice paper lightly but after thorough discussion with members of the legal profession who are experts in this field. The impact of the provisions are sufficiently serious to warrant the amendments. I I hope that when the vote is taken the amendment will be agreed to.

Mr. T. D. EVANS: I have taken note of the remarks made by the member for Wembley and I am prepared to consider whether what he claims the effect of paragraph (o) could be is in fact the position. I have strong doubts as to whether this is so. I understand the position to be somewhat different in respect of stamp duty which has been paid on any of these transactions. I think that, as a result of the change in the law, property which could come into the dutiable estate, upon which stamp duty has been paid as part of an arrangement in the past whereby it escaped the full impact of death duty or any death duty at all, would come into this category. I am sure that the stamp duty which has been paid will be taken into account by the commissioner.

The member for Wembley raised the point that this may not be the position and I am prepared to consider his point of view.

I cannot follow the Leader of the Country Party. The member for Wembley said he would not vote against the clause. The Leader of the Country Party said he agreed with the member for Wembley but that he opposed the clause. The honourable member either agrees or disagrees with the member for Wembley. I cannot work that one out.

I do not want to be accused again of misleading the Leader of the Country Party. If he looks at the Administration Act he will find that paragraph (p) in this measure is only an extension of section 74 (1) of that Act. It covers the same type of gifts which are covered in the current law. However, the effect will be to limit the impact of death duty to three years, under this legislation, whereas section 74 in the Administration Act has no limitation at all.

I do not know whether the arguments put forward by the Leader of the Country Party were, in fact, arguments or fantasy. I recommend to the Committee that paragraph (p) stand as printed.

Paragraph put and passed.

Subclause (3)—

Mr. R. L. YOUNG: Subclause (3) deals with the situation of a concessional allowance for gifts made during the lifetime of a deceased person. To avoid the necessity to go into a deceased person's estate to the lengths which would otherwise be necessary, it has been written into the legislation for some time now that gifts up to $2,000 will be allowed free of duty to the estate.

I will read the portion I wish to amend so that it is clear to the Committee. The subclause states—

> (3) In the case of property the subject matter of a gift or gifts *inter vivos* made by a deceased person within three years before his death . . . subsection (2) of this section applies only

in relation to the amount, if any, by which the aggregate value of all such property exceeds two thousand dollars.

In other words, gifts over $2,000 made during the lifetime of the deceased person will be taken into his estate as notional property. That amendment was written into the Administration Act some years ago and, bearing this in mind, I will test the theory I put forward during the second reading stage in regard to the fact that Governments and States too often base their Budgets on inflation.

I intend to move that the amount should not be left at $2,000 but should be increased to $3,000. I do not think anyone would deny that over the last several years—and certainly since the amendments were made to the Administration Act in 1966—the value of the dollar has decreased considerably. We are talking about the sort of people who would not be giving large gifts and about people who can perhaps least afford the imposition of death duty.

The Assistant to the Treasurer has consistently said that the purpose of the legislation is to maintain parity, to keep equity between taxpayers, and to do the right thing by the little fellow. If parity is to be maintained, the amount of $2,000 should be increased to $3,000.

The Administration Act in this regard was last amended in 1966. Since that time the value of the dollar has probably decreased by about 39 or 40 per cent. By the time this legislation has any effect whatsoever on a deceased person's estate it will probably have decreased a little further.

So it is not unreasonable for us to ask the Government to increase this concession from $2,000 to $3,000, purely in the interests of ensuring that the States do not continue to raise extra money through inflation which they should be controlling rather than encouraging. I move an amendment—

Page 15, line 6—Delete the word "two" with a view to substituting the word "three".

Mr. T. D. EVANS: The amount of $2,000 referred to in the Bill is also found in the current legislation, of course. In fact, it was written into the Administration Act by way of amending legislation introduced and skilfully handled by the member for Greenough in 1966.

Sir David Brand: That is a long time ago though.

Mr. T. D. EVANS: At that time, some seven years ago, the amount of the exemption was lifted tenfold—from $200 to $2,000. Whilst I am somewhat impressed by the arguments put forward by the member for Wembley, in view of the other substantial concessions which have been made in this Bill, I am not prepared at this particular point in time to accept the amendment. I accept there is some merit in the argument, but having regard for the wide extension of concessions in the Bill, I cannot see my way clear to accept the amendment.

Sir David Brand: Why not give it a go? It would not affect your total.

Mr. R. L. YOUNG: With due respect to the Assistant to the Treasurer, I do not think it is a matter of accepting it later. I do not think he will get the opportunity to accept it at any other time.

Mr. T. D. Evans: I have oodles of confidence.

Mr. R. L. YOUNG: This legislation contains two important principles. Firstly it seeks to rewrite provisions prescribing the rates of tax. Although I believe we have given a big enough plug to the Assistant to the Treasurer in respect of the few concessions contained in the Bill, I will give him another plug and say that with the exception of concessional provisions to dependent wives, children, and orphaned children, we still have a number of taxing provisions which can feed on inflation and have a detrimental effect on the pockets of beneficiaries as the years go by.

The value of the dollar is decreasing all the time, and Governments continue to finance their Budgets with moneys raised through inflation. It is a tragedy, and unfortunately true, that this has occurred over many years with the Commonwealth Government—with Governments of both political colours. As the Assistant to the Treasurer pointed out, when the member for Greenough was Treasurer and Premier in 1966, he took certain actions. An amending Bill introduced at that time increased the concessional deduction tenfold.

Mr. T. D. Evans: It had regard for the long period of time which had elapsed since the Act was last amended.

Mr. R. L. YOUNG: Over the seven-year period from 1966—and eventually it will be an eight-year period—the value of the dollar has decreased again. We are now asking for a 50 per cent. increase in this concessional deduction. I do not believe this increase will break the Treasury, and it would be of great benefit to a number of people, and particularly those who, in the years of their retirement, for the first time in their lives manage to have a little cash in hand and so make certain gifts to their wives and offspring. These gifts may be of no great consequence in real terms, but they may exceed the concessional allowance. As a Parliament I believe we could do the right thing and increase the concession.

Amendment put and negatived.

Mr. R. L. YOUNG: The further amendment I proposed is now of no consequence as the Committee has rejected my first amendment.

Subclause put and passed.

Subclause 4—

Mr. R. L. YOUNG: This subclause refers back to paragraph (f) of subclause (2) in respect of settlements. One must read paragraph (f) in conjunction with subclause (4) to realise the full import of this provision.

Briefly, subclause (4) provides that a property which is the subject matter of a settlement which will be caught under subclause (2) (f) will be valued as at the date of death and not as at the date of the making of the settlement. We will then have the situation where this subclause provides that the value will be taken as at the date of death and this will take in any increase in value which has occurred from the day of the settlement. I will read the words of the subclause to clarify this point. It commences—

> For the purposes of paragraph (f) of subsection (2) of this section the property the subject matter of a settlement shall be deemed to include the proceeds of the sale or conversion of—

And these are the important words. It continues—

> —and all investments for the time being representing any such property and all property which has in any manner been substituted for property originally the subject matter of that settlement.

If a settlement is made and the property which is the subject matter of the settlement is converted, say, from cash to shares in a company, the estate of the settlor—the person who made the settlement—will be increased to the extent of the increase in value from the day he disposed of the original asset to the day that he dies. The settlor quite often is not the one this legislation is trying to catch.

Let us take a situation of a grandfather who wishes to make a settlement which will not come under the provisions of the Income Tax Assessment Act. The trustee—perhaps the father—will be the one who will be feeding the trust with income, and he will be the person to whom this legislation should most likely apply. In many cases he is the one who divests himself of income-producing property, but under this provision it is the grandfather who makes the settlement on a grandchild. The father, acting as trustee, will feed the fund and invest the money so that the asset increases in value. It is the settlor's estate which will be caught when he dies. It seems to me that in many cases it is not the settlor whom the Government is after, but the person who feeds the estate.

Let us say that a grandfather settles $100 on his grandson in 1971, and then dies in 1974. The father of the beneficiary invests the money in speculative shares and enhances its value. By virtue of the increase in value of conversion of the property, the grandfather's estate will be added to. This seems to me to be totally wrong. It could be a family friend who makes the settlement, but this subclause would penalise someone who may be quite remote from a family income-producing potential. It is to the settlor's estate that the converted cash value of the expertise of the trustee will be added.

I point out to the Assistant to the Treasurer that I have not placed an amendment on the notice paper in respect of this subclause. I do not have the expertise available to me to draft an amendment to cover the situation as I would like to cover it. However, I believe this subclause should be looked at when the Bill is recommitted so that an attempt may be made to overcome the situation where the settlor has added to his estate the value of the expertise of the trustee.

I myself have acted as settlor for trusts from time to time. These trusts have not involved a great deal of money—perhaps the settlement of $5 on a child to create a trust which can be used by the trustee as a basis for creating an estate for the child. On some occasions I have acted in this capacity many years ago and the increase in some of these estates may be very considerable by now. Fortunately, I think I have outlived the three-year period but if this settlement had taken place two years ago and I was hit by a bus on the way home tonight, my estate could be added to by, say, $100,000 which I had never seen and which I had no right to. This is typical of many provisions which appear in the Bill and should not be in it.

Mr. T. D. EVANS: I will indicate again, as I have on other occasions, that I will have the points raised by the member for Wembley examined. Personally, I cannot conceive that the situation he has forecast could happen under the provisions of the subclause.

My own view is that if a particular asset, no matter by what means or device, on the date of death passes to another person or to an estate and attracts duty—if we accept that the assessment provisions of this Bill impose duty on a given asset and whether we have accepted paragraphs (o) or (p) is not important at this time—I cannot see the logic in pointing out that where that asset has changed its character and is converted, there should be an exemption from death duty.

Subclause put and passed.

New subclause (5)—

Mr. R. L. YOUNG: I propose to move to insert a new subclause (5) after subclause (4).

The CHAIRMAN: Now is the time to move it.

Mr. R. L. YOUNG: I move an amendment—

> Page 15—Insert after subclause (4) the following new subclause to stand as subclause (5)—
>
> (5) In the case of a settlement made for any consideration in money or money's worth, paragraph (f) or (g), as the case may be, of subsection (2) of this section applies only in relation to the amount, if any, by which the value of the property the subject matter of that settlement, valued at the date of the death of the deceased person, exceeds the amount of that consideration.

This amendment will give effect to two or three proposals I have made in other parts of the Bill; that is, to avoid the possibility of double taxation by virtue of the fact that the Bill, on a number of occasions, refers to the situation where property or possessions may be transferred to another person without adequate consideration. However what the Bill has failed to do is to cover a situation where inadequate consideration may have been given, and yet, under the strict interpretation of the Bill, unless full consideration had been given for that particular transfer of assets or possessions, the whole value of them would be added to the person's estate. So, to amend paragraphs (f) and (g) in subclause (2) which deal with settlements, I propose to add a new subclause (5).

Mr. T. D. EVANS: Members of the Committee will recall that when we were discussing clause 5 of the Bill I indicated that an amednment along these lines would be accepted. The Leader of the Country Party will also recall, I trust, that clause 5 contained a definition of "settlement". Later this evening the member for Wembley again sought an assurance that this amendment would be accepted, and I now indicate it is acceptable to the Government.

Amendment put and passed.

Subclause (5)—

Mr. R. L. YOUNG: In subclause (5) of the Bill as printed we have a similar situation in respect of inadequate consideration. Previously we referred to paragraph (k) of subclause (2) where a person may have an annuity or a lease in conjunction with another person and on the death of one of those persons the survivor is benefited by the fact that the entire property will pass to him. I now refer to the case of the purchase of the other person's interests prior to the death of the deceased. There is a proviso in subclause (5) which reads—

> . . . where the purchase was made or the lease or annunity granted, for adequate consideration in money or money's worth to the vendor or grantor . . .

And so it goes on. In the spirit of the previous amendment, I propose to move an amendment to that subclause which will have exactly the same effect. Unless we write into the subclause a provision that consideration may be given other than in full money or money's worth, and then further qualify it by saying that this provision will apply only to the extent of any deficiency, we will be accepting under one clause a philosophy we are not accepting in another. Therefore, for the sake of consistency, I move an amendment—

> Page 15, line 29—Delete the passage "trustee.".

If that amendment is agreed to I then propose to move an amendment to insert the passage, "trustee and where any such purchase or grant is made for a consideration in money or money's worth which is less than the value of the interest purchased or lease or annuity granted such paragraph shall apply to the extent only by which such value exceeds the consideration".

Mr. T. D. EVANS: As I understand the effect of this amendment its object is to prevent the whole of the property being subject to duty when some consideration has been paid to the deceased person by the other party or parties. If members refer back to paragraph (k) of clause 10, it will be seen that it refers to "the increase of benefit". When I was speaking to that particular paragraph I indicated that it has been in the current legislation for many years and according to the commissioner it has never been criticised.

Paragraph (k) of subclause (2) contains the words I have mentioned; that is, "the increase of benefit accruing to any person". If we consider the effect of the amendment moved by the member for Wembley, then taking the whole subclause into consideration, it will read in accordance with the subclause as printed in the Bill, except that after the word "trustee" in line 29 there will be inserted the words which have been read to the Committee by the member for Wembley.

I consider that this amendment is unnecessary, in the light of the comments made in regard to paragraph (k) of subclause (2) and the fact that the content of that paragraph according to advice from the commissioner is already in the current legislation and has not been criticised.

Mr. R. L. YOUNG: I do not think the amendment is unnecessary, because notwithstanding that paragraph (k) of subclause (2) may be part of the current legislation, subclause (5) is not part of the current legislation, and if subclause (5) states that paragraph (k) of subclause (2) will not apply in the case of a deceased

person who sold an interest for adequate consideration I am simply adding to it a provision that where he sold it for an inadequate consideration the only aspect that paragraph (k) will affect is the insufficiency of the consideration. It is exactly the same philosophy as that contained in the previous provision that has been accepted by the Minister and this amendment merely represents a tidying up of a provision that is necessary to avoid the possibility of double taxation.

If we accept the philosophy in respect of one paragraph I cannot see why we cannot accept the same philosophy in respect of another. Even if the Assistant to the Treasurer is correct and the wording is exactly the same as it is in the Administration Act—which it is not—it would still not be sufficient justification to say we cannot amend the provision to improve it. The provision is not exactly the same as that in the Administration Act. I think subclause (5) will be infinitely clearer and its effect will be improved by the amendment.

I would also point out that practitioners would think it strange to find in an Act presented to them two provisions with the same philosophy but with different wording and a different effect. They would also be more surprised if they referred to the debate during the Committee stage of the Bill and found that an amendment was moved to bring the provisions into line but the Assistant to the Treasurer refused to accept it.

I put it to the Minister that I consider the amendment is necessary, and even if he does not agree with me I do not think the amendment will adversely affect the legislation; it will improve it.

Amendment put and negatived.

Subclause put and passed.

Subclauses (6) and (7)—

Mr. R. L. YOUNG: Subclause (6) is the one to which I referred previously. It relates to paragraph (o) of subclause (2) which I have read to the Committee and I will not read it again. For the purpose of *Hansard* I will ask anyone brave enough or silly enough to read these speeches to relate the passages back to paragraph (o). In the speech I made when dealing with paragraph (o) I said it was a provision which had as its basis the presumption of greed. I pointed out that the effect of it was that anyone who held the governing director shares which gave him the right to take certain actions in regard to the company would have his estate assessed on the basis that he had taken such action as would put every other shareholder in the worst possible position in relation to himself. I do not think we should base our legislation on those premises.

Subclauses (6) and (7) are related and for a number of reasons I intend to vote against both of them. When framing legislation of this nature we should not consider the actions a person might take to the detriment of another person because we do not know whether or not the legislation is clear enough to indicate the most, let us say, avaricious thing a person could do to gain from the other shareholders the most benefit for himself.

One thing I do know is that the best way to frame the legislation is in the light of what, in fact, happened. Let us ascertain how the person used his powers. Did he use them to gain the most dividends, the most directors' fees, the highest salary, or the biggest car allowance for himself? If he did those things, then let us tax his estate accordingly. In other words, let us tax his estate on the basis of what he did and not on the basis of what he might have done.

This presumption of greed is responsible for the problems we debated for an hour in respect of one paragraph. With all due respect to the Commissioner of State Taxation and to the Assistant to the Treasurer, I say that greed does not motivate the person who holds the governing director shares. He does not necessarily have the desire to avoid the greatest amount of death duties. In many cases he acts in an effort to continue to hold unto himself the greatest amount of power for the purpose of steering his family and beneficiaries along a path which will eventually lead to their being capable of running and taking control of the company. To tax his estate on the basis that we presume that because he had the power he would have used it, is absurd. It is assuming that might will always be used where reason might better prevail. It is the presumption that the biggest fellow ought to beat the other fellow up in order to gain the nearest girl, glass of beer, or dollar. That is what the clause presumes, and it is wrong to presume that people always act like that.

I think that those on this side have given sufficient warning to the Assistant to the Treasurer that we will be voting against and dividing on subclauses (6) and (7).

The CHAIRMAN: Does the member for Wembley want to take the two subclauses together?

Mr. R. L. YOUNG: Yes, if that is all right with the Assistant to the Treasurer.

Mr. T. D. Evans: Yes.

Mr. W. A. MANNING: I support the member for Wembley because subclause (6) is atrocious and gives the Commissioner of State Taxation tremendous powers. Two parties are involved—firstly the deceased

person, and, secondly, the persons left with an interest in the estate. Subclause (6) says in part—

> ...if the deceased person had then exercised the rights attaching or existing in relation to his interests in that body to the greatest possible disadvantage of that other person, shall be deemed for the purposes of paragraph (o) of subsection (2) of this section to be a benefit which accrues to that other person.

The provision does not refer to fairness or honesty. It merely refers to the greatest disadvantage imaginable. Let us imagine some of these disadvantages. The person could totally ignore the interests of all the other members and declare a dividend in favour of himself; he could revalue all the company's assets and issue bonus shares to himself; he could plunder the bank account and pay it all out to himself as director's fees; or he could issue himself with further shares at par and then increase the authorised capital and make all the other shares worthless. If he did these things the commissioner could assess the whole value of the assets because it would be the difference between what would have been, what was, and what could have been.

The Assistant to the Treasurer must face up to the situation and agree to the deletion of the subclauses.

Mr. T. D. EVANS: I wish to take this opportunity to endeavour to clear up what may be a misapprehension in respect of subclause (6) and paragraph (o). I am not dealing for the time being with subclause (7) which is closely allied to subclause (6).

These provisions are not intended or designed to tax the control of a company during the lifetime of the governing director. In other words, if a person is the director of a family company and he holds a particular share or group of shares to which are attached values, powers, or authorities different from those of the bulk of the other shares, and it is clearly designed so the life governor will be able to exercise great influence on the policy and management of that company over and above all the other shareholders put together; then that situation will remain. This legislation will not affect that at all. It is not intended to do so. We do not say that that is a bad scheme or that there is something sinister in it.

Paragraph (o) provides that the moment of death of the life governor, when the articles of association are arranged in such a way that the life governor share immediately loses all the qualities and becomes an ordinary share, there is, in fact, a change in value of the other shares. This legislation takes note of that change.

Now we come to subclause (6). I am making the point that I made before which is that there will not be—and I may be criticised for authorising a witch hunt to look for one person—too many people who will put themselves in what I regard as this peculiar category. However, the fact is that one person can place himself in this category and during his lifetime he can act as a sole trader. Then, at the moment of death, by having adopted that device his estate escapes paying death duty. On the other hand, another person who has run a similar type of business, but does not adopt that device, becomes burdened with death duties. One estate is able to avoid death duties and another is not able to escape them.

We do not believe this is equitable in any shape or form, and for these reasons subclauses (6)and (7) have been drafted and I ask the Committee to support their retention.

Mr. W. A. MANNING: The Assistant to the Treasurer has not answered the point I raised. The provision does not state that the commissioner shall assess the difference on a reasonable basis. If it did so I could accept it to a degree. However, the provision refers merely to the greatest possible disadvantage to the other shareholders. It is of no use the Assistant to the Treasurer saying the provision would not act in this way because we can deal only with what is in the Bill and the power is given to the commissioner to imagine the worst possible thing. If the word "reasonable", "honest", or something similar were included, we might begin to see daylight, but as the provision is worded it is atrocious.

Subclauses put and a division taken with the following result—

Ayes—22

Mr. Bertram	Mr. Hartrey
Mr. Brady	Mr. Jamieson
Mr. Brown	Mr. Jones
Mr. Bryce	Mr. Lapham
Mr. B. T. Burke	Mr. May
Mr. T. J. Burke	Mr. McIver
Mr. Cook	Mr. Norton
Mr. H. D. Evans	Mr. Sewell
Mr. T. D. Evans	Mr. A. R. Tonkin
Mr. Fletcher	Mr. J. T. Tonkin
Mr. Harman	Mr. Moiler
	(Teller)

Noes—22

Mr. Blaikie	Mr. Mensaros
Sir David Brand	Mr. Nalder
Sir Charles Court	Mr. O'Connor
Mr. Coyne	Mr. O'Neil
Dr. Dadour	Mr. Ridge
Mr. Gayfer	Mr. Sibson
Mr. Grayden	Mr. Stephens
Mr. Hutchinson	Mr. Thompson
Mr. A. A. Lewis	Mr. R. L. Young
Mr. W. A. Manning	Mr. W. G. Young
Mr. McPharlin	Mr. I. W. Manning
	(Teller)

Pairs

Ayes	Noes
Mr. Taylor	Mr. E. H. M. Lewis
Mr. Bickerton	Mr. Rushton
Mr. Davies	Mr. Runciman

The CHAIRMAN: The voting being equal, I give my casting vote with the Ayes.

Subclauses thus passed.

Subclause (8) put and passed.

Subclause (9)—

Mr. R. L. YOUNG: This is the subclause which exempts from the provisions of notional property any superannuation fund payment which is made to a widow, widower, dependent child, or dependent parent. I have pointed out on a number of occasions that I do not consider this subclause goes far enough. I have an amendment on the notice paper but I intend to move another amendment which, basically will have the same effect. I have submitted the amendment to the Assistant to the Treasurer but the one which I intend to move is not in accordance with the one he told me he would accept. It is my intention to move for the deletion of subclause (9) with a view to substituting a new subclause as follows—

> (9) For the purposes of this Act, the estate of a deceased person does not include any amount payable to—
>
> (a) a widow, widower, dependent child, or dependent parent of the deceased person; or
>
> (b) any person who had received assistance from and during the lifetime of the deceased person,
>
> under a *bona fide* superannuation or pension scheme or arrangement.

I have used words which the Government has already used in its definition of "dependent parent", which we have discussed at length. I argued at that time that the words "who was receiving assistance from the deceased person" were fairly vague. The Government side argued that it was a fair and reasonable way to express the fact that a person had, to some degree, been dependent on the deceased person. My contention at that time was that even if a person gave a small amount of money—perhaps even only $1—to his parents from time to time he would be deemed to have given assistance to those parents during his lifetime.

If the Government is to remain consistent in its argument that the wording previously used was fair and reasonable I think it will probably agree with my amendment. I move an amendment—

> Delete subclause (9), line 38 on page 16 down to and including line 3, on page 17 with a view to substituting a new subclause 9.

Mr. T. D. EVANS: The general understanding of a superannuation scheme is that it is one which is embraced by a wage earner in order to make sufficient provision for his retirement, and also to provide some form of security for the close members of his family should he die either before he retires or after he retires from work.

In our own collective experience the benefit normally flows to the breadwinner himself, or to close members of his family. Close members of his family are, in fact, referred to in the Bill. The Commissioner of State Taxation has advised that he is unable to recollect, in his experience in the capacity of commissioner, the payment of superannuation funds to distant relatives or nonrelatives. This could be used as an argument in respect of the Government accepting the amendment proposed by the member for Wembley.

I pay a great deal of respect to the experience of the Commissioner of State Taxation when he says he cannot recollect where superannuation has been involved in any estate where it has gone to a person other than a close relative. I refer to a widow, a widower, a dependent child, or a dependent parent of the deceased person. I make the point that if the superannuation were not to go to any one outside of those people the amendment could be safely accepted, but I do raise a query regarding the definition.

We are not fighting on the principle; we are now fighting on detail. Paragraph (b) of the proposed new subclause sets out that any person who had received assistance from and during the lifetime of the deceased person would not be included. The word "assistance" standing on its own is rather loose. Should it be "financial assistance"? The definition relates to parents, and not any person, so one could assume that there is a nexus between the person who paid for the superannuation and any person other than those close relatives who had received assistance during the lifetime of the deceased person.

There should be a pattern of financial assistance over a period of time, and not just one slight gesture on the part of the deceased person of having given someone a small gift which would entitle that person to claim exemption in respect of superannuation.

While I do not differ on the principle contained in the amendment moved by the member for Wembley, I cannot accept it because of the question of lack of definition of "assistance".

However, I would be prepared to accept the amendment if it were further amended along the lines that in addition to the close relatives mentioned in paragraph (a) it referred to any person who was, in the opinion of the Commissioner of State Taxation, financially dependent upon the deceased person at the date of his death.

Such a situation would be capable of determination, and the paragraph would not suffer from lack of definition. I put the proposition to the member for Wembley that while I am prepared to accept

the principle I cannot go along with the definition contained in proposed new paragraph (b) because of the lack of clarity. If he is prepared to amend his amendment the Government will accept it.

Mr. R. L. YOUNG: The Assistant to the Treasurer is now using much the same argument I used with regard to clause 5.

Mr. T. D. Evans: And the nexus there was between the parent and the child, and the assistance is more readily understood in that relationship.

Mr. R. L. YOUNG: We established, by crossfire between myself, the Assistant to the Treasurer, and the member for Boulder-Dundas, that the word "assistance" in this particular instance could mean simply anything. I said the definition was too loose and there was no regular pattern of dependency in that respect. I said the definition was not good but the Assistant to the Treasurer now says that my definition, using the same words, is not good for the same reason I put forward.

Mr. T. D. Evans: The argument has improved.

Mr. R. L. YOUNG: Through my amendment I am trying to overcome the relationship between persons who are not financially dependent on each other. The suggestion put forward by the Assistant to the Treasurer would not necessarily overcome the situation.

Two requirements are necessary under the amendment proposed by the Minister. Firstly, there would have to be a financial dependency upon the deceased person at the time of the deceased person's death. Secondly, there would be an opinion open to the commissioner.

Mr. T. D. Evans: I am even prepared to concede that provision—the need for the opinion of the commissioner—because the opinion would not be made by him but by a judge.

Mr. R. L. YOUNG: Paragraph (b) would then apply to any person who was financially dependent upon the deceased person at the date of his death. That does not necessarily cover all the aspects I want to cover. I can understand a close relationship between people who are not financially dependent. I can quote a classic example concerning the superannuation fund.

The trustees, in their wisdom, decided to pay over the proceeds from the fund to a person who had had a very close relationship over many years with the deceased, and who had loved him and looked after him, while the wife and family of the deceased did not show the same interest in him. In that case justice was done.

Under the provisions in the Bill the deceased person's estate would be hit with the total value of that superannuation and a double hurt would be inflicted in respect of the wife—who, because of her actions, perhaps deserved to be hurt—firstly, in missing out on the money, and secondly, by virtue of the fact that out of her share of the estate, as the sole beneficiary, she would also have to pay estate duty on the share received by someone else.

Mr. T. D. Evans: I would be prepared to consider giving discretion to the commissioner where the person had a moral entitlement.

Mr. R. L. YOUNG: I do not like the word "moral". We are doing a bit of horse trading.

Mr. T. D. Evans: This Bill is obviously going to be recommitted. I have given an undertaking to come up with a clearer definition of the persons outside the close family, to cover the situation you have outlined.

Mr. R. L. YOUNG: In order that the clause may be passed in a worthy form, and subject to examination prior to recommittal, I would be prepared to accept the Minister's suggestion in regard to paragraph (b), leaving in the commissioner's opinion and taking out the financial dependence. That would then give the commissioner some discretion to bring to bear on the subject, as the trustees did in the case I quoted, and in exceptional circumstances the commissioner might even consult with the trustees and ask for an explanation of their action.

Mr. T. D. Evans: Would you like to read the provision as it would appear if accepted in that form?

Mr. R. L. YOUNG: I do not think it could be changed.

Mr. T. D. Evans: I suggest we pass the clause as it is and I will be prepared to consider it on recommittal.

Mr. R. L. YOUNG: I will withdraw my amendment on the firm understanding that subclause (9) is not acceptable in its present form. The Minister has indicated a willingness to try to make it more workable. I will accept that and upon recommittal move an amendment either in the form of the amendment I originally moved or in a form acceptable to the Minister. I seek leave to withdraw the amendment.

Amendment, by leave, withdrawn.

Subclause put and passed.

Clause, as amended, put and passed.

Clause 11: Deduction of liabilities in calculation of final balance—

Mr. R. L. YOUNG: This clause allows the deduction of certain liabilities in the calculation of the final balance of a deceased person's estate. One of the allowable liabilities is in respect of mortgages on properties. Clearly, a mortgage on a

property in Western Australia is allowable, but a mortgage on a property outside Western Australia is not allowable.

I proposed, with the amendment I have on the notice paper, to alter that situation because of the circumstances in which a person might borrow money in Western Australia, for use in Western Australia, secured on property which is outside Western Australia, and that money could be used to increase the value of his estate which will subsequently become assessable.

However, I have been informed that if I were to move that amendment it would be inconsistent with what I have said about other parts of the Bill—unwittingly, because I was not previously aware that real estate outside Western Australia is not taxed in Western Australia.

Mr. T. D. Evans: But it is taxed beyond Western Australia.

Mr. R. L. YOUNG: I was not aware of that. I was not aware that the debt on the property outside Western Australia was automatically deducted from the estate of the person in a jurisdiction outside Western Australia. Therefore, in moving the amendment I have on the notice paper I would be seeking a double deduction, and as I have complained often enough about double taxation I will not move the amendment.

Clause put and passed.

Clause 12: Deduction of certain legacies, etc., in calculation of final balance—

Mr. R. L. YOUNG: Clause 12 allows the final balance of the estate of a deceased person to be reduced in respect of gifts made to certain charitable organisations. I think this clause should be amended at some appropriate time to give the Treasurer power to prescribe deserving bodies from time to time, in the same way as the Federal Treasurer, under the Income Tax Assessment Act, prescribes donations to certain charitable organisations as tax deductions.

The clause is a little tight and I think the Treasurer, who is normally the Premier of the day, should have the right to say he thinks certain benevolent and charitable organisations should come within the ambit of clause 12. I put it to the Minister for the purpose of his giving some consideration to this matter on recommittal of the Bill. It would be a simple amendment which would take very little drafting.

Mr. T. D. EVANS: I am always amenable to suggestions which give discretion without requiring action accordingly. I can see merit in that course. There is often a need to rectify a closed schedule of bodies which might be prescribed in legislation for any purposes. It is cumbersome to have to bring the legislation back to Parliament in order to effect a very simple amendment. In any event, provision is made in other legislation for rectification and flexibility by way of regulations, which come under the operation of section 36 of the Interpretation Act, and Parliament has a look at them.

In this case, members of Parliament would like to be aware of any change in the prescribed bodies to whom gifts or benefits may be given without becoming accountable in the estate of a deceased person. I can see some merit in the proposition and I will endeavour to come up with something.

Clause put and passed.

Clauses 13 to 18 put and passed.

Clause 19: Ascertainment of duty on property passing to an uncertain person or on an uncertain event—

Mr. R. L. YOUNG: I have an amendment in respect of the amount of interest that is payable on payment of a refund to a deceased person's estate. Under the Administration Act, the commissioner can impose a rate of interest up to 10 per cent. on the late lodgment or late payment of duty in respect of an estate, and he is bound to repay any overpayment of duty with interest at the rate of 4 per cent. It is bad enough that the commissioner can impose a rate of interest of 10 per cent. and has an obligation to pay only 4 per cent. interest on a refund, but this Bill as written does not allow for any interest at all on refunds, notwithstanding that the commissioner may have held the amount of overpayment for a long time. I move an amendment—

> Page 22, line 20—Delete the passage "paid." and substitute the passage "paid with interest thereon at the rate declared for the time being pursuant to section 32 calculated from the date of payment of the duty to the date of the issue by the Commissioner of notice of the amended assessment."

Clause 32 is the clause which allows the commissioner to impose interest of 10 per cent. If a person has paid interest at the rate of 10 per cent. and it is subsequently discovered he is entitled to a refund, my amendment will enable the refund to be paid with interest of 10 per cent. up to the date of issue by the commissioner of the notice of amended assessment.

Mr. T. D. EVANS: I am pleased to announce that the Government accepts the amendment.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 20 and 21 put and passed.

Clause 22: Allowance for widows and widowers—

Clause 23: Allowances for widows or widowers with dependent children, and for dependent children—

Mr. R. L. YOUNG: Clause 22 is the famous clause about which the Assistant to the Treasurer has talked throughout the

entire debate. It increases concessional deductions by doubling those allowed under the Administration Act. The Opposition has no quarrel with that; in fact we applaud this action. We agree with the philosophy of the concessional deduction system, and we think it should continue to be used rather than to pick out certain assets within a person's estate and say they will not be assessable. Under this system the widest possible choice of assets is given to people. They can hold their assets in whatever shape or form they like. Regardless of whether their assets are jewellery, furs, money, a home, a life assurance policy, or whatever, they will still be entitled to across-the-board concession deductions. The philosophy laid down originally by the Brand Government in this matter has been followed by the present Government.

However, I am not sure that this clause will not do something about which the Assistant to the Treasurer will be sorry and many taxpayers will be glad. Try as I may, and seek opinion on it as I have, I still cannot come up with anything other than the fact that this provision will not double, but will quadruple the deductions, because it appears to be a doubling of a doubling. I know there are certain technicalities which I have discussed with the Assistant to the Treasurer on an informal basis, but I am afraid I do not agree with the explanations I have received to date. If I were in practice when this Bill is passed I would be inclined to advise my clients to deduct twice the amount claimed by the Assistant to the Treasurer to be a deduction allowable under the measure.

I do not know whether the Government has had senior counsel opinion on this, but if it has not then I think it should do so. If the Assistant to the Treasurer says the clause is okay and that the Government does not intend to do anything about it, then I can assure him that I will not do anything about it. Perhaps it will be tested at a later date.

The same principle applies in respect of clause 23, and with your indulgence, Mr. Chairman, I think we should discuss both matters together.

Mr. T. D. EVANS: I am happy to deal with clauses 22 and 23 together. As the member for Wembley indicated, the Government is adopting the scheme which was adopted by the Brand Government. My Government has decided not to continue with the earlier experimentations with *ad hoc* concessions, but to double the existing concessions. These clauses seek to double only those concessions which are already found in the Administration Act.

The member for Wembley raised this point during the second reading debate, and as Assistant to the Treasurer my interest was aroused. I asked the commissioner for an explanation of the *modus operandi* of the existing law. He said he would follow the existing practice as it had not been challenged in the past. He gave me an example of how he operates, and I think it is as well that it be recorded.

The various sections of the Act require the commissioner to assess duty on the final balance which is calculated exclusive of any concessional allowances. Having arrived at that position, the commissioner is then obliged to deduct firstly from the property passing to the specified beneficiaries so that they and other table 1 beneficiaries receive the benefit of the concessions in the distribution of any duty payable. I refer to table 1 of the Death Duty Bill.

Then the commissioner is required to deduct the same sum or sums from the final balance to reduce effectively the tax base on which he is required to impose a duty at the rates required by Parliament in the death duties taxing legislation. This makes it clear that for assessing the amount of duty payable the deduction is made once only.

As an example, let us assume the final balance calculated in accordance with clauses 10, 11, and 12 is $90,000; the amount left to the widow is $50,000; the amount left to two children is $30,000, and an amount of $10,000 is left to a stranger. Deduct from the widow's bequest $20,000, leaving $30,000 for duty; then deduct $20,000 from the dependent children's bequest, leaving $10,000 for duty.

Step 1 is to assess the duty on $10,000 at the rate applicable to $90,000—the final balance. This is the amount of the table 3 calculation in respect of the stranger. Step 2 is to deduct $40,000 from the $90,000, and then assess the duty payable on the dutiable balance of $40,000 passing to the widow and children at the rate applicable to $50,000. The final step is to issue the assessment for the total of step 2 or steps 1 and 2.

Thus the table 1 beneficiaries receive the benefit of the deduction in the tax base upon which the rate of duty is imposed. If the member for Wembley carefully examines this—it may take him some time; certainly it took me quite a while—I think he will come to the conclusion that the commissioner is quite right and is acting in accordance with the law.

Mr. R. L. YOUNG: I will not argue with the Assistant to the Treasurer on that point. I think the commissioner has achieved what he sought to achieve by this wording, as he has done in most other instances. However, I think once again he may have done something additional. I think clauses 22 and 23 attempt to achieve the position that for the purposes of determining any part of the estate required to be determined for the assessment of duty under table 1 of the Death Duty Bill,

the sum of $20,000 shall be deducted from that part of the property which passes to the widow.

I think that is what is intended to be done. That is what the present Act does, although it is worded differently. However, I do not think these clauses will achieve only what is intended. I will leave it at that. I have recorded my point in *Hansard* and I am sure that if there is any chance of my being right the matter will be tested in the courts.

Clauses put and passed.

Clause 24: Furniture and personal effects allowance—

Mr. R. L. YOUNG: This clause provides for an allowance to a deceased person's estate of certain furniture and personal effects up to the sum of $1,500. In accordance with the principles I espoused in respect of the deductibility of gifts *inter vivos* up to the amount of $3,000, I intend to move an amendment to this clause to allow for the inflationary factor. My intention is to insert a new paragraph (b) containing the words "two thousand dollars". I move an amendment—

> Page 26, line 17—Delete paragraph (b).

Mr. T. D. EVANS: The member for Wembley in a friendly manner indicated earlier that I had agreed to one of his arguments. I retorted that the argument had improved in the time since he developed it. I could not agree with the argument he presented to justify an increase in the sum relating to gifts *inter vivos*. I said at the time I could see some value in it, but having regard to the overall concessions we have extended by the passing of clauses 22 and 23 I could not agree to the amendment. The present Act was last amended in this respect in 1966 when the amount was increased from $200 to $2,000.

The member for Wembley rightly pointed out that a period of seven years had elapsed since it was last amended, and he developed his argument upon the erosion of values by inflation. I indicated that I was impressed by his argument but, because of the other concessions, I was not prepared to accept it.

Unfortunately that argument is not as meaningful in respect of this allowance because the present allowance in section 69F of the Administration Act was inserted only in 1970. On that occasion the then Treasurer more than doubled the allowance to $1,500. I am impressed with the argument in respect of the erosion of values by inflation, and I am also impressed by the fact that the Government should not increase its revenue as a result of inflation.

It should be bold enough to increase the rate or do something else if it desires to increase revenue, but it should not rely on the erosion of money values to achieve this end. For that reason I asked the commissioner to make a check.

I found that the average value of claims for exemption for furniture in 130 estates was a little less than $300, and the highest was just under $1,100. In view of what I have just said I cannot accept the amendment, but I am impressed with the argument that has been raised. However, it was more telling in respect of certain gifts, than in relation to exemptions attached to the furniture of deceased persons.

Amendment put and negatived.

Clause put and passed.

Clauses 25 to 37 put and passed.

Clause 38: Adjustment of duty—

Mr. R. L. YOUNG: This clause gives the right to an administrator to adjust the duty that is payable under an estate amongst the beneficiaries, so that each of them, unless otherwise specified, will bear his fair share of the amount of duty.

The clause is drafted with the inclusion of the word "will". Clause 38 (1) states—

> Subject to any specific direction to the contrary in any will, every person liable to pay duty shall adjust the duty payable or paid by him, and the incidence thereof, so as to throw the burden thereof upon the respective properties in respect of which the duty has been assessed.

Because settlements will be affected by the various provisions in the legislation it will be necessary for the executor of an estate to adjust the interest among the beneficiaries not only under the will, but under certain settlements as well, as property will be notionally brought into an estate in respect of settlements made within three years of the death of the deceased. Yet, the legislation does not direct that those settlements will be subject to the provision in this clause.

I therefore move an amendment—

> Page 36, line 14—Insert after the word "will" the words "or settlement".

Mr. T. D. EVANS: This clause covers the same subject matter as section 96 of the Administration Act. Subsection (1) is as follows—

> Subject to any specific direction appearing in any will or settlement to the contrary, every executor, administrator, or trustee, or person required to pay duty under this Act, shall adjust such duty and the incidence of any duty paid or payable by him, so as to throw the burden thereof upon the respective properties on which the same are ultimately chargeable.

The words "or settlement" are used in that subsection, because duty can become payable under the Act in respect of a settlement before—and this is the material

word—the death of the settlor. If this does become payable before the death of the settlor there could not be any testamentary direction as to the incidence of duty. Under the Bill a settlement cannot be dutiable unless the settlor has died.

If property in a settlement does form part of the settlor's estate for the purposes of the Bill, incidence of duty thereon could be dealt with by testamentary direction in the same manner as incidence of duty on any other property forming part of the estate. There is a clear distinction.

Although my opening remarks indicated that clause 38 covered the same subject, it certainly would cover it in a different manner. There are two departures from the manner in which the property is dealt with in section 96 of the Administration Act and the manner it is dealt with in clause 38 of this Bill. For those reasons I cannot accept the amendment.

Amendment put and negatived.

Clause put and passed.

Clauses 39 to 48 put and passed.

Clause 49: Ascertainment of value of debts—

Mr. R. L. YOUNG: This provision is used to cover the example which the Assistant to the Treasurer gave in his explanatory notes, in regard to a debt outstanding to the estate of a person upon which interest is not payable, and which is not due for a number of years.

He instanced the cases where a person dies with a debt owing to him on that basis, and pointed out that application could be made to the commissioner to have the value of that debt assessed on an actuarial basis.

As the amount which such a debt is worth on an actuarial basis is infinitely less than the face value of the debt, the estate is in fact assessed with only a marginal amount of duty; but it is claimed by the Minister that it would be much more reasonable if the face value of the debt were dutiable.

I know of many cases involving arm's length transactions that are entered into in the main by farmers where the person selling a property—not necessarily to a member of his family—does so on a long-term, interest-free basis. Such a transaction is entered into for a very good reason. It is known in quite a number of such instances that by investing the proceeds of a clearing sale the vendor will have a fair income, whereas a developing farmer who buys a property which needs continued development used to be able to claim sufficient deductions, prior to the recent Federal Budget. A farmer who has sufficient tax deductions by virtue of developments does not need the additional deductions of interest payable to the vendor. Furthermore, the vendor does not want the interest to be added to his income tax return, for the reason that he does not desire to pay tax on it. Such a transaction is a reasonabe one, and there is nothing untoward in farmers entering into this type of transaction, where the consideration for the amount of interest that is payable over a period of years is added to the purchase price and capitalised.

Under the Bill if a person who owns such a debt dies, the face value of that loan will be added to his estate. However, the loan is not worth its face value. I think it has been accepted by the Assistant to the Treasurer and by the Government that because a debt is a long-term one bearing no interest there is something reprehensible about the transaction, and so it should be brought into the estate on its face value. That need not necessarily be so, because of the instances I have quoted.

These transactions also apply to non-farming enterprises. It would be totally unfair for this legislation to bring the estates of deceased persons up to an increased value, over and above what such a debt is really worth. If the debt is not enforceable for a number of years and does not carry interest but has added to it the capitalised interest to bring the amount up to a certain figure, it is only reasonable that the real value of the debt on the date of death of the person should be assessed on an actuarial basis.

The clause has been drafted in such a way as to embrace the innocent and also the not-so-innocent. It seems to me that the concession should not have to rely on a transaction being a normal commercial transaction, and having to satisfy the Commissioner of State Taxation in accordance with the provision in the clause.

Proposed subsection (2) states—

> Subsection (1) of this section does not apply—
>
> (a) to a marketable security that, on the date referred to in that subsection, is quoted in a stock or share market in or out of this State; or
>
> (b) where the terms on which the debt so referred to is repayable are such as would be expected in a normal commercial transaction and the Commissioner is satisfied that it would not be just and reasonable in the circumstances that the subsection should apply.

If the requirement is that there has to be a normal commercial transaction in order to satisfy the provision in the legislation, then it does not seem to be reasonable to use the word "and" in reference to the commissioner having to be satisfied. I suggest the word "or" should be used.

I did not draw this aspect to the attention of the Minister previously, and what I have proposed does not appear as

an amendment on the notice paper, I am raising this point with the Minister to ascertain whether the two parts of proposed subsection (2)(b) should be concomitant or alternative.

As far as the principle of the clause is concerned it is not right that all transactions of this type should be attacked under this portion of the measure. Therefore, I have decided to move an amendment whereby the debt—if it is a debt that effectively represents the balance of the purchase price on the sale of the property at fair market value on terms not exceeding 15 years—will not be caught under the ambit of that provision. To start the chain of events which will eventually put me in that position I move an amendment—

Page 43, line 10—Delete the passage "State; or" and substitute the passage "State;".

Mr. T. D. EVANS: I will follow the pattern set by the member for Wembley and speak to the major amendment he seeks to move if he is successful with this amendment. With your indulgence, Mr. Chairman, I will not concern myself with the amendment before the Chair.

When I introduced the measure I spoke at great length in this regard; and when I mentioned clause 49 I gave an example of a father taking certain action. At this point I heard cries of "farmers" coming from all over the Chamber. This was the first time that a farmer had been referred to. I had referred to a "father".

The purpose is not to capture *bona fide* transactions which parties have conducted at arm's length and, to that end, subclause (2) of clause 49 meets the situation by exempting such transactions from the operations of subclause (1) of clause 49.

I am not prepared to accept the amendment moved by the member for Wembley for the reasons I gave when introducing the measure. I will examine his more recent comments, but I cannot accept the proposition he put forward; that we should provide a greater exemption. I feel the exemptions provided in subclause (2) are quite adequate to meet the genuine and *bona fide* transactions entered into by people at arm's length.

Mr. R. L. Young: Before the Minister sits down, would he look at the situation as to whether he wants both parts of paragraph (b) to run together.

Mr. T. D. EVANS: I have already commented on that.

Amendment put and negatived.

Clause put and passed.

Clauses 50 to 70 put and passed.

Title put and passed.

Bill reported with amendments.

BILLS (2): RETURNED

1. Dairy Industry Bill.
   Bill returned from the Council with amendments.
2. Alumina Refinery (Worsley) Agreement Bill.
   Bill returned from the Council with an amendment.

House adjourned at 11.08 p.m.

Legislative Council

Thursday, the 22nd November, 1973

The PRESIDENT (The Hon. L. C. Diver) took the Chair at 2.30 p.m., and read prayers.

QUESTION WITHOUT NOTICE

CLOSE OF SESSION: SECOND PART

Target Date

The Hon. A. F. GRIFFITH, to the Leader of the House:

The stage in this session of Parliament has been reached where members would like to have some indication from the Government of the anticipated concluding date of the session. There is a fresh rumour going around the corridors that the Government is attempting to conclude this session by tomorrow week.

The Hon. L. A. Logan: It has two chances—Buckley's and its own!

The Hon. J. Dolan: Where did the rumour start?

The Hon. A. F. GRIFFITH: I am getting a lot of help with my question. I feel this rumour cannot possibly be correct, in view of the large amount of business that remains on the notice paper—and there are still more Bills to be introduced.

I would appreciate it if the Leader of the House can throw some light in that direction, but more particularly with some date in mind as to when the session will conclude. I seek this information because of the commitments which members have in their electorates. Over many years the previous Government invariably tried to finish the session by the end of November each year, in order that members might fulfil their commitments in their electorates. Because of the unlikely event of this session concluding by the end of the month, we would like some idea as to when the House will be