Legislative Assembly

Tuesday, the 2nd October, 1973

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

DAYLIGHT SAVING

Adoption: Petition

MR. BATEMAN (Canning) [4.33 p.m.]: I have a petition addressed as follows—

> To the Honourable Speaker and Members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We the undersigned petitioners wish to express our desire for the adoption of Daylight Saving in the State of Western Australia as from the beginning of Summer 1973.
>
> Your petitioners therefore humbly pray that your Honourable House will give this matter urgent consideration and your petitioners as in duty bound will ever pray.
>
> I certify that this Petition conforms with Standing Orders.

I have signed the petition, and it carries 322 signatures.

The SPEAKER: I direct that the petition be brought to the Table of the House.

HARVEST ROAD, NORTH FREMANTLE

Closure: Petition

MR. HUTCHINSON (Cottesloe) [4.34 p.m.]: I have a petition addressed as follows—

> To the Honourable Speaker and Members of the Legislative Assembly of the Parliament of Western Australia in Parliament assembled.
>
> We the undersigned petitioners being residents and workers of North Fremantle and citizens of Western Australia do hereby pray that Her Majesty's Government of Western Australia will speedily heed the request of the undersigned to have Harvest Road North Fremantle remain open at all times so that the people of North Fremantle on the East side of Stirling Highway will not be virtually locked in as a result of the proposed closure of Harvest Road when the new Fremantle Traffic Bridge is opened.
>
> Your petitioners therefore humbly pray that your Honourable House will give this matter urgent consideration and your petitioners as in duty bound will ever pray.
>
> This urgent petition has 392 signatures and there are many more to come.
>
> I certify that the petition is in accordance with the Standing Orders.

I have signed the petition.

The SPEAKER: I direct that the petition be brought to the Table of the House.

QUESTIONS (29): ON NOTICE

1. GOVERNMENT DEPARTMENTS

Aircraft: Acquisition

Sir CHARLES COURT, to the Premier:

(1) Has finality been reached in the Government's study of aircraft acquisition (see question 17 and answer 7th August, 1973)?

(2) If so, what is the result of the study and what decisions have been made?

(3) If not, when is finality expected?

Mr. J. T. TONKIN replied:

(1) to (3) Inquiries are continuing, but no decisions have been made. In consequence, I am unable to say when finality can be expected.

2. RAILWAYS

Wheat Cartage

Mr. GAYFER, to the Premier:

Further to my question without notice on Wednesday, 19th September, and referring to question on notice No. 13 of that date, regarding the freight percentage increases as indicated from example stations to their natural port terminal, how do these percentage figures reconcile with his statement that the rail freights on grain would increase by only 15%?

Mr. J. T. TONKIN replied:

The percentage increase for grain railed to the natural port terminal is roundly 15% but, due to the nature of freight schedules and practice of rounding tonneage rates to 10c in ten kilometre zones, there are slight variances.

With respect to grain for North Fremantle terminal, freight rates have, in the past, been charged by the narrow gauge Cottesloe link rather than by the longer standard gauge route via Cockburn, over which the traffic is actually hauled.

To continue this method indefinitely would be disadvantageous to growers for all grain hauled to Kwinana and the change-over to

charging via the "south of the river" route will, therefore, be of the greatest benefit to growers when the mass of grain to Kwinana is greater than that to North Fremantle.

3. TRAFFIC

"Keep Left" Signs

Mr. HUTCHINSON, to the Minister for Traffic Safety:

As the "keep left" signs placed at strategic points on median strips are so high that the lights of vehicles on low beam do not properly illuminate them and they become potential hazards, will he give consideration to their appropriate modification?

Mr. JAMIESON replied:

The Main Roads Department policy is to erect "keep left" signs on medians at approximately 3 ft. 6 in. above pavement level in order that they are readily apparent to drivers whose eye heights generally range between 3 ft. 6 in. and 4 ft.

The reflectorised "keep left" signs provided by the department reflect brightly even when vehicle headlights are on low beam.

The Standards Association of Australia recommends a minimum vertical clearance above the pavement of 4 ft. for such regulatory signs.

Mr. Hutchinson: I think they are wrong and that you should have an inquiry made into it.

4. WATER SUPPLIES

Ongerup

Mr. W. G. YOUNG, to the Minister for Water Supplies:

Further to my question 14 of 19th September regarding water supplies in the Ongerup area—

(a) if a favourable decision is made to pipe water to Ongerup from Mills Lake will the work be put in hand so that water will be available this summer;

(b) if the decision is not to pipe water, what alternative arrangements will be made to see that adequate water supplies are available for this town?

Mr. JAMIESON replied:

(a) The works programme for 1973-74 has not yet been announced. If the scheme to supply water to Ongerup from Mills Lake can be included then every effort will be made to complete the pipeline before Christmas.

(b) If the work cannot be included in the 1973-74 programme and there is no further rain then carting of water on a restricted basis would be undertaken from either Mills Lake or Gnowangerup.

5. SUNSET HOSPITAL

Fire Hazard

Dr. DADOUR, to the Minister for Health:

(1) Have investigations into the question of existence of a fire hazard in ward 1 of Sunset Hospital been completed?

(2) (a) If so, what are the findings and what measures are being taken to remedy;

(b) if not, when does he anticipate the investigations will be completed?

Mr. May (for Mr. DAVIES) replied:

(1) Yes.

(2) (a) and (b) Because of the fire risk in respect of the upper floor of the building, patients from this floor have been transferred progressively over the past few months to other parts of the hospital. In approximately a week's time there will be no patients on the upper floor, which will be closed as a patient area.

6. *This question was postponed until the 9th October.*

7. ROBE RIVER SHARES

Acquisition by Bond Corporation

Mr. GRAYDEN, to the Premier:

(1) Will the Premier be consulted before any final arrangements are made in the partnership structure of Robe River Limited?

(2) Would the Premier please obtain and table—

(a) a copy of a report made by Hungerford, Spooner and Kirkhope, Chartered Accountants, Macquarie House, Macquarie Street, Sydney, to Robe River Limited relating to the Bond Corporation Pty. Ltd.;

(b) a copy of a report made by Price Waterhouse & Co. to Bond Corporation Pty. Ltd. relating to Bond Corporation Pty. Ltd.?

Mr. J. T. TONKIN replied:

(1) It is not envisaged that the joint venturers in the Robe River project will change. At present, the joint venturers comprise:—

Robe River Limited	35
Cliffs Western Australian Mining Co. Pty. Ltd.	30
Mitsui Iron Ore Development Pty. Ltd.	30
Mt. Enid Iron Co. Pty. Ltd.	5

Any change in the shareholding of Robe River Limited would not require the consent of the State, although I should appreciate being kept informed of the position.

The Speaker ruled that part (2) of the question was outside the scope of Standing Orders.

8. COMMONWEALTH AID ROADS FUNDS

Distribution

Mr. W. A. MANNING, to the Minister for Works:

(1) What amount has been paid annually from Commonwealth Aid (Roads) Funds for the years 1969-70 to 1972-73—

(a) to each local authority outside the metropolitan area;

(b) by the Main Roads Department in each local authority area outside the metropolitan area?

(2) What amounts have been allocated for 1973-74—

(a) to the same local authorities;

(b) to be expended by the Main Roads Department in the same areas?

Mr. JAMIESON replied:

(1) and (2) A considerable amount of research will be required to answer these questions.

The Main Roads Department will supply the information direct to the member when it is available.

9. MURDOCH AND SATTERLEY PROJECTS PTY. LTD.

Investigation

Mr. A. R. TONKIN, to the Attorney-General:

(1) Is the Companies Office and the C.I.B. companies squad investigating the activities of former Perth land development company, Murdoch and Satterley Projects Pty. Ltd.?

(2) Did he interview a former investor with the company, Mrs. Joy Hoggarth, in the presence of Mr. Adrian Bennett, M.H.R.?

(3) Following Mrs. Hoggarth's disclosures, did he ask the companies squad to assist her and have detectives interview her?

(4) Is the companies squad investigating the alleged misuse of funds by directors of Murdoch and Satterley Projects Pty. Ltd.?

(5) Have inquiries carried out by the companies squad revealed that more than 20 syndicates formed by the company failed in or about 1969-70?

(6) Did two finance companies, Mercantile Credits and Beneficial Finance, lend large sums of money to investors organised by the principals of Murdoch and Satterley Projects Pty. Ltd.?

(7) Is action by the State in relation to alleged secret commissions inhibited by a two-year Statute of Limitations?

(8) If "Yes" to (7), is it considered that such a limitation is in the best interests of the people of the State?

Mr. T. D. EVANS replied:

(1) Yes, from time to time inquiries have been made both by the Companies Office investigators and the C.I.B. company fraud squad. The present inquiries are being made by the latter.

(2) Yes, the request of Mr. A. Bennett, M.H.R.

(3) The matter of the interview was conveyed to the then Under-Secretary for Law; it appears that inquiries had already been commenced.

(4) Yes.

(5) and (6) It would not be proper for me to disclose details of the investigation while it is still proceeding.

(7) Section 544 of the Criminal Code provides that no prosecution shall be commenced after the expiration of two years, or six months after the first discovery of the offence by the principal or person advised as the case may be, whichever expiration first happens.

(8) The question of the public interest in relation to matters of policy of this kind is too complex to be expounded in an answer to a parliamentary question.

10. PRE-SCHOOL EDUCATION CENTRES

Government Policy and Assistance

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

(1) When the previous Minister made the agreement with the then kindergarten associations—

(i) to abolish kindergarten fees over three years;

(ii) provide more kindergartens; and

(iii) to train more teachers,

(a) was this part of the arrangement including the taking over of the associations' assets and setting up the Pre-School Education Board;

(b) was the Kindergarten Association given to understand it was totally subject to Commonwealth finance being available?

(2) Other than continuing the Brand Government formula for financially assisting pre-school education, what extra material help has his Government extended to the association or board during the Tonkin Government's term of office?

(3) Does the Government intend to honour its 1971 election promise "we shall assist in the further development of pre-school education throughout the State"?

(4) If "Yes" to (3), how and when will this be done?

(5) If "No" to (3) because it claims it has fulfilled the promise, how can he claim this has been accomplished?

Mr. T. D. EVANS replied:

(1) (a) The discussions included the taking over of the association's assets and the establishment of the Pre-School Education Board.

(b) The association was given to understand that Commonwealth assistance was necessary.

(2) In May, 1972, an additional eight building grants were made to alleviate some of the growing backlog of applications and for the 1972-73 financial year the number of building grants was increased from 12 to 18 per annum.

(3) Yes.

(4) Details will be announced in the presentation of the Budget.

(5) Not applicable.

11. BANK HOLIDAYS

Christmas and New Year

Mr. RUSHTON, to the Minister for Labour:

Adverting to question 19 of 19th September—

(1) Will he advise what holidays are to be enjoyed by—

(a) general public;

(b) public service,

for Christmas and New Year?

(2) Does he acknowledge bank officers, because of their branch service throughout the length and breadth of our vast State have great difficulty in being with their families on these special occasions unless the holidays are for three or four consecutive days?

(3) Why do the public and public service not enjoy the same holidays?

Mr. HARMAN replied:

(1) (a) Christmas Day, 25th December, 1973.

Boxing Day, 26th December, 1973.

New Year's Day, 1st January, 1974.

(b) Those mentioned in (a) plus additional days on Monday, 24th December, and Monday, 31st December, 1973.

(2) Annual leave entitlements help to overcome the problem.

(3) It has been historical and traditional for public servants to receive the Monday holidays when Christmas Day and New Year's Day fall on a Tuesday.

12. KELMSCOTT RAILWAY STATION

Parking Area

Mr. RUSHTON, to the Minister representing the Minister for Railways:

(1) Is he aware the Kelmscott railway reserve used for patrons' parking has deteriorated to an even more dangerous state since my last request for attention?

(2) Will the large holes be filled immediately?

(3) When will the patrons receive the consideration they deserve for using the rail transport in such large numbers?

(4) What plans are current for the improvement of the rail service to Armadale to a standard enjoyed by Midland commuters?

Mr. MAY replied:

(1) It is agreed that recent inclement weather could have caused some deterioration in the condition of the surface of the area.

(2) The filling of the potholes has received attention and the work was completed on 4th September, 1973. The area was again inspected on 1st October, 1973 and two pools of surface water were noted on the eastern side side of the station. The area has a drainage problem and to completely eliminate the surface water the area requires to be completely regraded and bituminised. Upgrading of the area on the western side is programmed for 1974-75 but efforts will be made to advance the work consistent with the amount of funds available for the purpose.

(3) Every consideration is given by the department to the needs of railway patrons residing at Kelmscott and at other localities and the best possible facilities are provided consistent with the amount of funds available.

(4) As from 9th October, 1973, the following alterations will take effect:

Morning peak period trains:

6.57 a.m. ex Armadale—Seating increased from 248 to 280.

7.12 a.m. ex Armadale—Seating increased from 172 to 282.

7.40 a.m. ex Armadale—Seating reduced from 342 to 248.

7.45 a.m. ex Armadale—Additional train providing 248 additional seats.

7.46 a.m. ex Armadale—Seating increased from 140 to 172.

Total increased seating capacity—328.

Afternoon peak period trains:

4.10 p.m. ex Perth—Seating increased from 240 to 280.

5.10 p.m. ex Perth—Seating increased from 240 to 280.

5.20 p.m. ex Perth—Seating increased from 124 to 140.

5.40 p.m. ex Perth—Seating increased from 248 to 280.

Total increased seating capacity—128.

13. PERTH AIRPORT

Extension and Alternative Site

Mr. RUSHTON, to the Minister for Town Planning:

(1) Does he know the present plans for the extension of Guildford Airport?

(2) Has the Government requested the Commonwealth Government to consider an alternative site for future expansion?

(3) If "Yes" to (2), which areas has the Government recommended for consideration?

Mr. May (for Mr. DAVIES) replied:

(1) The present plan for Perth Airport is indicated by the Australian Government's progressive acquisition of the 700 ha in the Newburn area. I understand the thinking at this time envisages the construction of a second runway parallel to and to the east of the existing main runway, with some replanning of the existing facilities.

(2) The Australian and State Governments have recently created a committee to look into the future requirements of Perth and that body is scheduled to meet in the near future.

(3) No suggestions have been made for consideration.

14. SALVADO PROJECT

Commonwealth Grant, and Feasibility Study

Mr. RUSHTON, to the Treasurer:

(1) Has the Commonwealth Government offered a grant or loan towards financing the Salvado project?

(2) What is the total sum of the Commonwealth offer?

(3) Has a feasibility study been completed into the viability of Salvado?

(4) If "Yes" to (3), will he table the report?

(5) Has the State made an application to the Commonwealth Government for a grant and/or loan for head works and for basic service development?

(6) If "Yes" to (5), will he advise the House the details of the application?

Mr. J. T. TONKIN replied:

(1) For 1973-74—Yes.

(2) (a) $3,000,000 for land acquisition.

(b) $500,000 for engineering and environmental studies.

(3) The area defined as Salvado forms part of the north west corridor of The Corridor Plan for Perth, the principle of which was endorsed by Cabinet in April 1973. The development of the corridor will be a long term process, and a number of alternative development

strategies are under investigation, all of which would be viable, depending on different levels of funding and growth. A study has also been carried out by consultants to the Cities Commission on aspects of development of Salvado.

(4) State development strategies are still under investigation; a decision on the publication, or otherwise, of the consultant's report to the Cities Commission is the prerogative of the commission.

(5) No.

(6) Answered by (5).

15. TRANSPORT

Uniform, Minimal, or Free Fares Proposal

Mr. RUSHTON, to the Premier:

Referring to my question 20 on 12th April, 1973 for the introduction of either a uniform, minimal or free public transport fare for the metropolitan region—

(1) Do the answers still stand; namely, lack of finance, for rejecting my suggestion?

(2) What would be the estimated cost of introducing a free public transport system into the metropolitan region?

(3) Will he please table reports upon the feasibility of introducing a partly or wholly free service and the reasons for not proceeding?

Mr. J. T. TONKIN replied:

(1) to (3) The concept of a zoned or uniform fare structure, on both bus and rail, for the Perth region was not rejected by the answer of the 12th April. It was pointed out that it may be difficult to achieve in practice.

If, and when, Parliament agrees to a Bill which it is hoped will be introduced this session to integrate the management of suburban bus and rail services, the concept becomes more practical, and it will then be put under close study by the Perth Regional Transport Co-ordinating Committee.

No precise estimate of the cost of providing free public transport has been made. Suburban passenger revenue in fiscal 1972-1973 amounted to $10,197,935, made up of bus and ferry fares (excluding charters) $8,509,935, and suburban rail fares $1,688,000.

At the level of public transport usage experienced in 1972-73, the cost of providing free public transport would therefore be of the order of $10,200,000 less any operational savings that might be achieved.

The primary reason for not providing for the concept of free public transport at this time is obviously cost. The secondary reason stems from some concern that free transport may not achieve the objectives which its proponents claim for it.

Overseas studies suggest that only 15-20% reduction in automobile usage can be achieved, and then only on those routes where public transport can really compete, in terms of speed and convenience, with the automobile. The same studies also suggest that the system would become hopelessly overloaded with people who have no actual need to travel at all. If this occurred, the only feasible way of improving the situation would be a massive increase in capacity which, to a considerable extent, would be wasteful of scarce financial resources.

It is believed there may be some administrative approaches which will be more cost effective in reducing automobile usage, at least for the journey to work, to the central business district, and in providing increased mobility for those of our people with low incomes.

The Member may recall that the Australian Government made mention of the concept of free public transport during the election campaign. It has decided to institute during 1974 a carefully controlled free public transport demonstration project in Canberra to collect data on the costs and benefits. Results of this project should be awaited before consideration in detail is given to the position in Perth.

16. LOCAL GOVERNMENT

Rates: Payment

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

(1) Is he aware that local authority rates are paid in advance?

(2) If so, is the local authority entitled to prosecute ratepayers who do not pay their rates until after the 12 months rating period is concluded?

Mr. HARMAN replied:

(1) Rates are levied prior to 31st August in each financial year for the purpose of meeting the budget requirements for that particular year.

(2) Section 550 of the Local Government Act provides that a copy of the memorandum of rate imposed must be published in the *Government Gazette* and the rate becomes due and payable on the day on which the copy of the memorandum is so published, but the council shall not take proceedings to recover or enforce payment of the rate until after the expiration of thirty-five days from the publication, at the expiration of which period payment of the rate is in arrear.

17. HIGH SCHOOL AT GOSNELLS

Establishment

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

(1) As there has been an increase in primary school attendances in the Gosnells area over the past 12 months, is it the intention of his department to build a new high school in the Gosnells area?

(2) If so, what is the location of the new high school and when is it anticipated building will commence?

Mr. T. D. EVANS replied:

(1) Yes.

(2) A site has not yet been acquired. No date for commencement has been scheduled.

18. THORNLIE HIGH SCHOOL

Stage Four of Construction

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

(1) In view of the rapid growth rate of students attending Thornlie High School will he advise if stage four of the school will be ready to absorb these students at the commencement of the 1974 school year?

(2) If so, how is it anticipated stage four will be achieved?

Mr. T. D. EVANS replied:

(1) and (2) Completion of stage four is scheduled for early in first term. Depending on construction progress, classroom accommodation may be ready for the beginning of the school year. If this is not possible, the shortfall will be met by using temporary accommodation.

19. FUNERALS

Government Controlled Service

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

(1) Was it correctly reported that the Government is investigating the possibility of establishing a Government controlled funeral service?

(2) If so, what form does the investigation take, what is the composition of the body which is investigating and what are the terms of reference for the investigation?

Mr. HARMAN replied:

(1) No detailed examination of the question has been made.

(2) A request was made to the Government by the Australian Labor Party, W.A. Branch, to examine the question of the feasibility and desirability of conducting a funeral director's establishment in competition with private enterprise. The shortage of capital funds precludes serious consideration at this stage.

20. NON-GOVERNMENT SCHOOLS

Grants: Advisory Body

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

(1) What is his Government's policy for recurrent grants to efficient non-Government schools?

(2) Are the regulations gazetted on 8th June, 1973 in this respect giving 20% of the assessed average national cost in Government schools as a per capita grant to schools to remain unaltered?

(3) Is it contemplated to appoint an independent advisory body to advise the Government?

(4) If so, what are the terms of reference and the composition of such body?

Mr. T. D. EVANS replied:

(1) The policy is set out in section 9B of the Education Act.

(2) No change is contemplated at this time.

(3) No.

(4) Answered by (3).

21. SEWERAGE

Commonwealth Grant

Mr. MENSAROS, to the Minister for Water Supplies:

Could he inform the House what the prospects are for the State to receive the reported Federal Government grant of $3.8 million for sewerage works, in particular—

(1) Has the grant been allocated yet?

(2) If not, when is it expected to be allocated and to what amount and for what period of time?

(3) What will be the conditions of the grant especially regarding its use for sewerage installation in established areas or areas to be newly developed?

(4) Has his department any plans of priority how, when and in which areas the grants will be used?

(5) If (4) is "Yes" could he give detailed information to the House with maps and timetables?

(6) If (4) is "No" when could such detailed plan be expected to be completed?

Mr. JAMIESON replied:

(1) No.

(2) When enabling Commonwealth legislation has been passed. It is expected that $3.8 million will be made available during the fiscal year 1973-74.

(3) It is expected that the Commonwealth legislation will provide that the amount be expended on backlog of unsewered premises in major urban areas.

(4) Yes. The amount will be expended on contractural commitments in the following areas—

Woodlands area—9B

Balga area—4A

Rivervale area—4

Redcliffe area—2D

Balcatta areas—1A and 2A

(5) This information has been published in the *Government Gazette* as follows:

Woodlands area 9B—1st December, 1972.

Balga area 4A—26th January, 1973.

Rivervale area 4—16th February, 1973, and 16th March, 1973.

Redcliffe area 2D—16th February, 1973.

Balcatta area 1A—16th February, 1973.

Balcatta area 2A—2nd March, 1973.

(6) Answered by (4) and (5).

22. HEALTH

Dental Therapy Training Centre

Mr. MENSAROS, to the Minister for Health:

(1) Was it correctly reported that the Federal Government is going to grant the cost of building for a dental therapy training centre?

(2) If so, where is the centre to be built?

(3) What is the estimated cost and the estimated times of commencing and completing the building?

(4) What are the conditions of the grant?

Mr. May (for Mr. DAVIES) replied:

(1) Yes.

(2) On Crown land adjacent to Mt. Henry Hospital.

(3) Building has commenced. It is anticipated that it will be ready for occupation in February or March, 1974. The contract price was $490,823. There will be additional costs for work not included in the contract. These extra costs will not be known for several weeks.

(4) That the school be used to train dental therapists for employment in the Australian schools dental service.

23. ENVIRONMENTAL PROTECTION

Lake Kununurra

Mr. RIDGE, to the Minister for Environmental Protection:

(1) Is it a fact that four irrigation drainage outlets from King locations 383 and 384 on Packsaddle Plains will be directed into Lake Kununurra?

(2) Considering the frequency of use of pesticides on irrigation farms can he give an assurance that drainage into the lake will not result in contamination and have harmful effects on the town water supply, the use of the lake for swimming, and the unique flora and fauna in the area?

(3) If no such assurance can be given, what action does he propose taking?

Mr. May (for Mr. DAVIES) replied:

(1) Yes.

(2) This whole question is currently receiving attention.

(3) Answered by (2).

24. BEEF

Export Tax

Mr. RIDGE, to the Minister for Agriculture:

(1) In relation to a newspaper report on 21st September which said a parliamentary committee had recommended a special tax on beef exports as the best way of stabilising domestic meat prices and that the tax would need to be high, will he advise if there is any suggestion that the recommended tax will be additional to the 1c per pound export levy which was announced in the Federal Budget and will be imposed as from 1st October?

(2) Will he broadly outline the points raised by him when opposing the Federal Government's 1c per pound levy on meat exports?

(3) In what form did he express objection, e.g., letter, telegram, etc.?

(4) In his representations to the Federal Government did he make particular reference to the severity of the levy on Kimberley beef producers who cater almost exclusively for overseas markets?

(5) If the recommended tax is additional to the export levy will he be objecting to this also?

Mr. H. D. EVANS replied:

(1) A tax on beef exports recommended in the report of the Parliamentary Joint Committee on Prices would be additional to the proposed 1c per pound levy which was designed to meet the costs of meat inspection at export abattoirs.

(2) to (5) A telex sent to the Minister for Primary Industry expressed concern at reports of a possible imposition of a tax on export meat or of a ban on the export of some meats. It was requested that Western Australia's special position be recognised in any consideration of a ban on the export of lamb. It was indicated that a tax on meat exports would be sectional and be unlikely to have a major impact on retail prices.

The telex did not make mention of the 1c per pound levy or of the specific position of Kimberley producers. The Premier was not referring to the 1c per pound levy when he said at Midland that he hoped the Federal Government would not find it necessary to tax beef exports.

25. ORD RIVER PROJECT

Cotton Farmers: Financial Assistance

Mr. RIDGE, to the Minister for Agriculture:

(1) What level of financial assistance is to be extended to the Ord River cotton farmers for the 1973-74 growing season?

(2) Bearing in mind the necessity for adequate forward planning and the possibility of farmers having to replace expensive machinery, has the Government considered guaranteeing long term aid so as to infuse confidence into the industry and thereby ensure continued plantings of cotton?

(3) If "Yes" will he provide details?

Mr. H. D. EVANS replied:

(1) to (3) The financial problems of cotton growers and the need for them to be able to assess their likely financial returns several years in advance of major commitments is receiving consideration at the present time.

An announcement will be made by the appropriate Minister when these considerations have been completed.

26. TRANSPORT

Railway Buses and Trains: Free Services

Mr. W. G. YOUNG, to the Minister representing the Minister for Transport:

As the Minister has announced a plan that free public transport will be progressively introduced, does this mean—

(a) Railway Road Bus services to country areas will be free;

(b) Intrastate train travel will be free?

Mr. JAMIESON replied:

(a) and (b) The Minister for Transport has not announced a plan that free public transport will be progressively introduced.

27. FISHERIES

Taiwanese Boat Captains: Release

Mr. McPHARLIN, to the Premier:

(1) Has the State Government taken any action to assist in the well being of the two Taiwanese fishing boat captains who were placed in the East Perth lock-up on Monday, 24th September?

(2) Will he prevail on the Commonwealth Government so that they may be released and sent home to Taiwan to provide for their families?

Mr. J. T. TONKIN replied:

(1) and (2) Yes, representations were made last week to the Federal Attorney-General for the purpose of securing their release from gaol. Senator Murphy undertook to see what could be done in the direction requested.

28. COMMITTEE ON DISCRIMINATION IN EMPLOYMENT

Transfield (W.A.) Pty. Ltd.

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

(1) Has he seen a Press report wherein Mr. P. Troy is reported to have accused Transfield (W.A.) Pty. Ltd. of discrimination against Australian workers?

(2) Is Mr. P. Troy a member of the Department of Labour's Committee on Discrimination in Employment?

(3) Who are the members of that committee?

(4) Does that committee believe that Transfields (W.A.) Pty. Limited discriminates against Australian workers?

(5) Since my inquiry indicates that Transfield employs 48 persons with European names; 103 persons with Italian, Spanish, Portuguese or Yugoslav names (including 39 naturalised Australians); and 16 persons of other nationalities (total 119), does he consider that—

(a) this break-up is significantly different from what one would expect in any construction industry;

(b) the reported comment by Mr. P. Troy is warranted?

Mr. HARMAN replied:

(1) There have been reports in the Press but none by Mr. P. Troy.

(2) Yes.

(3) The members of the Western Australian Committee on Discrimination in Employment and Occupation are—

Sir Thomas Wardle (Chairman).

Mr. H. A. Jones (Under Secretary, State Department of Labour).

Mr. F. S. Cross (Director, Western Australian Employers' Federation Inc.)

Mr. M. D. Robertson (Regional Director, Australian Department of Labour).

Mr. P. Troy (Senior Vice-President, Trades and Labor Council of Western Australia).

(4) The matter is still under discussion.

(5) (a) and (b) As the subject is still under discussion by the Western Australian committee, it is not my intention to make a comment.

29. ABORIGINES

Kimberley: State and Commonwealth Grants

Mr. RIDGE, to the Minister representing the Minister for Community Welfare:

During the year ended 30th June, 1973 what was the value and purpose of—

(a) State grants;

(b) Commonwealth grants to Kimberley people within the categories hereunder—

(i) mission properties;

(ii) Aboriginal communities;

(iii) Aboriginal groups or associations;

(iv) individual Aborigines;

(v) shire councils (Aboriginal unemployment relief)?

Mr. T. D. EVANS replied:

I seek permission to table the answer.

The answer was tabled (see Paper No. 363).

QUESTIONS (12): WITHOUT NOTICE

1. LAND

Development Proposals: State Ministers' Conference

Sir CHARLES COURT, to the Premier:

(1) Has a conference of State Ministers been held recently to consider such things as Commonwealth land proposals (including form of land tenure), city and urban assistance proposal (including sewerage funds)?

(2) If "Yes"—

(a) What were the reasons for the conference and the business of the conference?

(b) Was the Commonwealth represented at the conference by a Minister?

(c) What were the decisions of the conference?

(3) Did the conference favour freehold or leasehold for residential land?

Mr. J. T. TONKIN replied:

(1) In general terms, yes.

(2) and (3) The Minister for Town Planning has not yet returned from the conference. Until I have received his report, I am unable to give the further information requested.

2. ROAD MAINTENANCE TAX

Nonpayment: Mr. Brandstater

Mr. THOMPSON, to the Premier:

(1) Has road maintenance tax offender, Neville Brandstater, been released from goal? If so, when?

(2) In line with the case of Mr. Jack Mullane, did Mr. Brandstater satisfy the Government that—

(a) he had not the financial capacity to pay his debt;

(b) he had disposed of his truck, and signed a statement that he would no longer engage in the transport industry?

(3) Will he table a copy of—

(a) Mr. Brandstater's financial statement in the form demanded by the Government; and

(b) the declaration that he will no longer engage in the industry?

Mr. J. T. TONKIN replied:

(1) Yes, on the 26th September, 1973.

(2) (a) Yes.

(b) Yes. Mr. Brandstater has disposed of his prime mover. He has also made arrangements for the sale of his semi-trailer to another operator, and has signed a declaration that it is not his intention to engage in the transport of goods for hire.

(3) (a) Statements of operators' personal finances are confidential, and not available for publication.

(b) Yes, copy tabled herewith.

The declaration was tabled (see paper No. 364).

3. FISHERIES

Taiwanese Boat Crews: Repatriation

Mr. McPHARLIN, to the Premier:

(1) How does the law governing fishing in Western Australian waters differentiate between Indonesian and Taiwanese fishing boats?

(2) Why was it that when 33 of the crew of the two confiscated fishing boats were repatriated, the radio operator was detained?

(3) Now that the solicitor for the crew has paid the fare for the repatriation of the radio operator, will the Government consider reimbursing him for the amount paid?

(4) What further advice or information has Senator Murphy given in reply to your telephone inquiry regarding the release of the two Taiwanese fishing boat captains, as reported in *The West Australian* of the 27th September, 1973?

(5) Will the Government pay the fines of $4,000 each imposed on the two men as a gesture of goodwill and a genuine demonstration of concern for their families?

(6) If so, and these men are released, will the Government repatriate them to their families and their dependants?

Mr. J. T. TONKIN replied:

(1) Neither the State Act, which relates to a three-mile offshore limit, nor the Commonwealth Fisheries Act, which is operative within a further nine-mile zone, differentiates between Indonesian and Taiwanese fishing boats.

(2) and (3) I am unable to comment since these matters come under the jurisdiction of the Commonwealth Government.

(4) Since informing me that he would cause inquiries to be made into the release of the two fishing boat captains, no further advice has yet been received from Senator Murphy.

(5) and (6) No. These are also matters for Commonwealth consideration.

4. HARVEST ROAD, NORTH FREMANTLE

Closure

Mr. HUTCHINSON, to the Minister for Works:

(1) Is he aware that concurrent with the opening of the new Fremantle traffic bridge, his Government intends to close Harvest Road, North Fremantle, in so far as traffic access and egress to Stirling Highway are concerned?

(2) Is he also aware that with the alteration of Harvest Road and other roads to cul-de-sacs, the only traffic outlet from North Fremantle, east of the highway, for about 2,000 people in the North Fremantle pocket will be Alfred Road, up towards the flour mill, which already poses a potentially dangerous traffic hazard?

(3) Will he explain how workers and residents who now use Harvest Road to gain access to the North Fremantle Shopping Centre, particularly at lunch time, will be able to obtain their daily requirements, and travel to and from work, when the street is closed off at the highway?

(4) Is he aware that in this regard his Government is acting in an incredibly stupid, unfeeling, and dangerous way with the simple rights of the North Fremantle people?

Mr. J. T. Tonkin: You know that is a breach of the Standing Orders.

Mr. HUTCHINSON: To continue—

(5) If he is unable to answer these vital departmental questions, will he explain his lack of knowledge of these disastrous effects resulting from the completion of one of his department's notable public works?

Mr. JAMIESON replied:

(1) to (5) I have not had notice of this question. The first indication I had that anything was amiss in this regard arose from the presentation of the petition today. It is a pity that one of the petitioners did not see fit to get in touch with me. However, if the honourable member will place the question on the notice paper I shall certainly have the matter investigated and give a considered answer.

Mr. Hutchinson: You should know about it.

5. ALBANY HIGH SCHOOL FIRE

Fingerprinting of Students

Sir CHARLES COURT, to the Premier:

(1) Has he received a petition from students at Albany Senior High School asking him to reverse his decision about voluntary fingerprinting or asking him to make it possible otherwise for volunteers to be fingerprinted by the police?

(2) If so—

(a) How many signed the petition?

(b) What is the form of the petition?

(c) What is his decision about the students' petition or other form of request about voluntary fingerprinting?

Mr. J. T. TONKIN replied:

(1) No.

(2) Answered by (1).

6. WOODSIDE-BURMAH OIL N.L.

Production: Commonwealth Takeover

Sir CHARLES COURT, to the Minister for Mines:

I apologise for the lateness of the question to the Minister, but it was only as a result of the Press announcement tonight that I was able to obtain the necessary information. The question is—

(1) Was he or other Ministers in the State Government consulted by the Minister for Minerals and Energy before the Commonwealth's decision was made under its alleged powers under the Pipeline Authority Act, 1973, to take all production at well-head and to directly plan and control all downstream development activities in respect of Woodside-Burmah Oil N.L. operations in Western Australia?

(2) (a) Does the State Government agree with the Commonwealth's decision?

(b) If not, what action does the Government propose to take to oppose the Commonwealth's proposal?

(3) If the State Government does support the Commonwealth's decision, on what grounds does it do so?

(4) Is the Commonwealth's decision not a serious setback for Western Australia and will it not seriously inhibit negotiations by the Western Australian Government to use Western Australian petroleum products, including natural gas, in a way calculated to achieve optimum development of this State's natural resources?

Mr. MAY replied:

(1) to (4) In view of the fact that I have had little notice of this question, I suggest it be put on the notice paper.

Sir Charles Court: Surely you know the answer to this, in view of the Press announcement?

7. ROAD MAINTENANCE TAX

Nonpayment: Mr. Brandstater

Mr. THOMPSON, to the Premier: Referring to the answer given by the Premier when he said that Mr.

Brandstater did not have the capacity to pay the outstanding road maintenance tax—

(1) Is he aware that Neville Brandstater—

(a) jointly with his wife, is the registered owner of five acres of land on which is established a business enterprise;

(b) could not convince the Department for Community Welfare, because of his financial state, that his family were entitled to financial support while he was in gaol;

(c) makes the boast publicly that he will not pay road maintenance tax, even though he has the ability to pay?

(2) Does he not agree that, by releasing this man from his debt, still owing the State a considerable sum of money, the Premier has demonstrated to genuine operators who pay their road maintenance tax that they are at a distinct disadvantage?

Mr. J. T. TONKIN replied:

(1) and (2) I am not aware of any of the allegations made by the member for Darling Range.

8. TRANSPORT WORKERS' UNION

Transfield (W.A.) Pty. Ltd.: Ban

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

(1) Has he received a petition from a number of workers at Transfield (W.A.) Pty. Ltd. requesting that action be taken to ban picketing of their construction site to permit them to continue work and to obviate retrenchments?

(2) What action—

(a) is available to him, and

(b) does he propose to take in response to this petition?

Mr. HARMAN replied:

(1) and (2) I have been advised by the Premier that a petition from the workers at Transfield was brought to his office today. I have also been advised that this petition will be referred to my office. Consideration will be given to the contents of the petition and to any action that can be taken.

9. WOODSIDE-BURMAH OIL N.L.

Production: Commonwealth Takeover

Sir CHARLES COURT, to the Minister for Mines:

The Minister has requested me to place on the notice paper the question which I asked previously on the ground that he had not had sufficient notice of it. The main point on which I now want to address him is this: Is the report that the Commonwealth Minister for Minerals and Energy has advised that it is the intention of the Commonwealth Government under the powers it claims to have under the Pipeline Authority Act, 1973—I use the actual words which appear in the Press statement—to take all production at well-head and to directly plan and control all downstream development activities in respect of Woodside-Burmah Oil N.L. operations in Western Australia, correct?

Mr. MAY replied:

I have not heard or seen the report referred to by the Leader of the Opposition.

Sir Charles Court: Surely the Commonwealth Minister for Minerals and Energy would have advised you!

10. BUILDING INDUSTRY

Investigation

Mr. HUTCHINSON, to the Minister for Works:

In view of his having arranged for Mr. Smith, Q.C., to preside over a public inquiry into the building industry, and having regard for the terms of reference of the investigation as outlined in his reply to the question of the member for Floreat of the 20th September, does he still intend to introduce building contractors' registration legislation in the dying hours of the session, which will, amongst other things, repeal both the Builders' Registration Act and the Painters' Registration Act?

Mr. JAMIESON replied:

As I have given notice of this legislation today, it cannot be considered to be in the dying hours of the session.

Mr. Hutchinson: You said it would be at least a month before the inquiry was completed.

Mr. JAMIESON: This legislation deals with particular matters at issue, as the honourable member was

well aware. It is, in fact, a consumer protection type of legislation. I would ask the honourable member to be patient, and wait until it is introduced.

11. BUILDING INDUSTRY

Investigation

Mr. HUTCHINSON, to the Minister for Works:

Did he or did he not say in answer to the question asked by the member for Floreat that one of the terms of reference of the inquiry would concern the possible registration of building contractors?

Mr. JAMIESON replied:

I am not prepared to give a "did he or did he not" answer without having a look at the question. Neither I nor the member for Cottesloe is an encyclopaedia. I will have a look at the matter and see exactly what was said after which I will give a considered answer, but I will not become involved in any chicanery from across the House by giving an immediate answer to a trick question.

Government members: Hear, hear!

Sir Charles Court: It is not chicanery.

Mr. Hutchinson: It is not a trick question.

12. LEGISLATION

Government Programme

Sir CHARLES COURT, to the Premier: I wrote to the Premier concerning the Bills which he hoped to have introduced and considered this session, and I indicated that if he did not have a chance to advise me before today, I would ask a question without notice concerning the subject.

Mr. J. T. Tonkin: Advice has gone out to you.

Sir CHARLES COURT: I am sorry. I checked before I came into the Chamber, and I have not received the information as yet.

TRADE DESCRIPTIONS AND FALSE ADVERTISEMENTS ACT AMENDMENT BILL

Returned

Bill returned from the Council with amendments

BILLS (2): REPORT

1. Firearms Bill.
2. Mental Health Act Amendment Bill.

Reports of Committees adopted.

BILLS (3): THIRD READING

1. Nurses Act Amendment Bill.
2. Dental Act Amendment Bill.

Bills read a third time, on motions by Mr. H. D. Evans (Minister for Lands), and transmitted to the Council.

3. Coal Mine Workers (Pensions) Act Amendment Bill.

Bill read a third time, on motion by Mr. Taylor (Minister for Development and Decentralisation), and transmitted to the Council.

UNIVERSITY OF WESTERN AUSTRALIA ACT AMENDMENT BILL

Second Reading

MR. T. D. EVANS (Kalgoorlie—Assistant to the Treasurer) [5.21 p.m.]: I move—

That the Bill be now read a second time.

The need for this measure arises from the decision of the Australian Government to take full responsibility for financing tertiary education from the beginning of 1974.

There is no financial gain to the State from this move, as amounts equal to the expenditures of which the Government is to be relieved from the 1st January, 1974, are being deducted from the general purpose funds allocated to the State by the Australian Government.

The amounts of recurrent expenditure of which the State is being relieved are being deducted from the financial assistance grants otherwise payable and sums equal to capital expenditures which the State would have incurred from the 1st January, 1974, are being deducted from Loan Council programmes.

Although there is no immediate monetary benefit to the State from the transfer of these expenditures to the Australian Government, the future growth in expenditure on tertiary education in this State is likely to be greater than the growth in Commonwealth payments to the State and therefore the State should ultimately gain from the move.

It is also tidier administratively to have only one authority responsible for assessing and financing tertiary education programmes.

The University of Western Australia Act provides for the payment to the senate of the sum of $500,000 in every year together with such additional amounts as may be appropriated by this Parliament from time to time.

This provision will not be required after the end of this calendar year and accordingly the Bill provides for the required amendment from the 1st January, 1974.

I commend the Bill to members.

Debate adjourned, on motion by Mr. E. H. M. Lewis.

WOOD CHIPPING INDUSTRY AGREEMENT ACT AMENDMENT BILL

Returned

Bill returned from the Council without amendment.

ELECTORAL DISTRICTS ACT AMENDMENT BILL

Second Reading: Defeated

Debate resumed from the 8th May.

MR. O'NEIL (East Melville—Deputy Leader of the Opposition) [5.25 p.m.]: This Bill contains a number of proposed amendments to the Electoral Districts Act and it appears to me to be a pity that it contains some provisions with which we cannot agree and, at the same time, some to which we would show some sympathy. However, the Bill is drafted in such a form that so far as my party is concerned we will have no option but to oppose it.

Firstly, the Bill contains provisions which will facilitate the publication of proposed new electoral boundaries. Instead of the mass of description of the boundaries, together with appropriate maps, appearing in a newspaper, provision is to be made to enable a public announcement referring to the particular *Government Gazette* containing the proposals, to be adequate. That is a simple matter of clearing up a little red tape and is a provision on which we would probably see eye to eye with the Government.

In the same way the practice of the electoral commissioners in determining the total number of electors for the purpose of carrying out a redistribution of boundaries to be taken as at the date of the gazettal of the proclamation of a redistribution, seems to us to be reasonable because it is, in fact, rationalising a situation which currently obtains. The Bill contains a consequent proposal relative to calculating the quota as at the same date and that, too, seems to be fairly reasonable.

It appears from what the Minister said that this is the practice which is, in fact, followed by the commissioners and it could well be that some minor legal doubt exists as to the selection of this particular date for making the calculations, and the Bill contains a provision to ratify the action which has so far been taken. Under normal circumstances, that, too, would arouse no major opposition from this side of the House.

The Bill contains a provision which we are bound to oppose because in our view the legislation is drafted far too loosely. The Minister has explained that currently there is a fixed boundary for the seats within the metropolitan region and this is a line which followed the boundaries of electorates which existed at the time the relevant amendment was made to the Act, which amendment, by the way, had the full support of all political parties in the Parliament.

It is true that in the case of the extension of residential and other development in the metropolitan area certain roads have been diverted from the courses they followed prior to 1965. Probably it is also true that one can expect this sort of situation to arise again. The Bill contains a proposal to enable the commissioners to make what is termed minor adjustments to the currently statutorily fixed boundaries. Our objection is not to the principle of diverting the boundaries slightly to follow the contour of a new road or railway line. To our way of thinking the use of the word "minor" without any clear definition is not adequate. If there were some provision which simply referred to minor adjustments because, by reason of road or rail deviation, a variation was necessary, perhaps to a degree it would be acceptable; but we are not prepared to give the commissioners the power to make this deviation on what they can determine to be a minor variation. So once again we have a situation where, because of the Bill not having been drafted more carefully, we must disagree with the principle of an adjustment because the measure does not clearly indicate what is, in fact, a minor variation of those statutorily fixed boundaries.

The Bill contains an interesting provision which the member for Mirrabooka has detected. It is a provision to allow the electoral commissioners to increase from the existing 10 per cent. to a proposed new 20 per cent. the tolerance in setting the quota for an electorate. The member for Mirrabooka has on the notice paper an amendment which proposes to delete this provision, which I think is worthy of comment because the present Government's counterpart in the Federal Parliament has moved in the other direction. The Federal electoral commissioners were permitted a tolerance of 20 per cent. in the number of electors within an electoral division, and the proposal is to reduce it to 10 per cent. on the basis that it would go further towards that Government's aim of one-vote one-value.

In fact, it was a matter of party policy from the Government's point of view and was considered to be so important that the Minister for Services and Property (Mr. Daly) actually threatened that this could be one of the issues upon which the Federal

Government would force a double dissolution. Consequently it is an unusual situation in that this Government introduced a piece of legislation which, in effect, did exactly the opposite to what its Federal counterpart was doing in another scene. This is one occasion when I can agree with the member for Mirrabooka who, in fact, wants the present situation to continue. We did not imagine that a tolerance greater than 10 per cent. was warranted in any way. Consequently we find ourselves with strange political bedfellows on this occasion; the Opposition is agreeing with a supporter of the Government who disagrees with his own Minister in charge of the Electoral Districts Act Amendment Bill while, on the sidelines, the Commonwealth Parliament has been playing ducks and drakes and threatening dire consequences if, in fact, its proposal—which is the same as ours—is refused.

The only other major matter remaining in the Bill is the proposition in respect of the areas which, I think, are currently called the north-west and Murchison-Eyre areas. For some considerable time there has been a special area in Western Australia containing the State electorates of Pilbara, Kimberley, Gascoyne, and Murchison-Eyre. These seats have been regarded separately and distinctly from any other seat within the State by virtue of their distance, size, and sparsity of population. For many years there has been no change in the electoral boundaries as between the seats which lie in that area.

The measure before us proposes to make provision for the area itself to be given special recognition and special significance but, within that area, boundaries ought to be drawn which contain, as near as possible, 25 per cent. of the electors within the area.

The SPEAKER: Order! I must ask members to be quiet.

Mr. O'NEIL: I have not done an exercise in geography or mathematics to determine just where those boundaries might lie. I will leave that to the members for the districts concerned who know far more about their areas in respect of their electoral population, ordinary population, and boundaries, than I do.

It is quite significant that the electorate of Pilbara has shown remarkable growth. I am only hazarding a guess but I think somewhere between 7,000 and 8,000 electors are on the roll for the Pilbara. In fact, it is approaching what one could call a "normal" type of rural electorate and, of course, it will grow still further. Members on this side of the House would be in agreement with the Government in trusting that all of these areas will grow and that their populations will develop. It would appear, however, that for some time at least the maximum rate of growth will occur in the Pilbara region because of the development of the iron ore resources as well as the establishment of new ports and towns. In fact, the Pilbara is the main area of growth and development within Western Australia outside the metropolitan and country areas.

It could well be, if one were to conduct the exercise of dividing these four electorates into four areas containing an equal number of voters, that some rather remote part would have to attach to itself a portion of the residential area of Port Hedland. I am not quite sure this would be the case but, if it were, one must appreciate that the principle of community of interest would, in fact, be destroyed. At this time we do not believe any attempt ought to be made simply to say in respect of that area, "We will divide it up into four parts, each of which contains an equal number of voters." Perhaps our attitude would be different had the Minister indicated, during his second reading speech, what ports and what towns, in general terms, would probably fall within the new boundaries.

It is extremely important in such vital matters as amendments to the Electoral Districts Act for as much detail as possible to be given to the House. We cannot deny this is a matter of major party political interest as well as a matter of major interest to the electors themselves.

I hark back to my earlier statement when I mentioned that, prior to the 1965 election, major amendments were made to electoral Acts in this Parliament. Those amendments first of all established the fixed line—if one likes to call it that—around the metropolitan electorates. They also gave adult franchise to the Legislative Council, provided for compulsory voting, and made provision for conjoint elections. These matters were thoroughly examined by all the political parties of the day and, as far as I can recall, no objection was raised to any of them. It was a matter on which the parties were, in essence, unanimous.

I say this because a number of new members of Parliament—probably on both sides of the House—do not realise the traumas political parties have gone through to bring ourselves to the point of having reasonable and equitable representation.

Mr. Jamieson: You could have fooled me!

Mr. O'NEIL: This debate will stir up a hornet's nest on certain philosophies or principles.

Mr. Jamieson: It is 15 to one.

Mr. O'NEIL: I point out once again that one of the provisions in this measure is a complete contradiction of the policy of the Australian Labor Party and a complete contradiction of the policy adopted by the Federal Government which even went to the extent of threatening a double dissolution. The member for Mirrabooka has an

amendment on the notice paper and, as I have said, on this occasion we concur with that point of view.

Mr. Jamieson: The two situations are not comparable because there is only one quota situation under the Commonwealth whereas there is a multitude under the State.

Mr. O'NEIL: I can see the Minister for Works will have a few words to say on the measure.

Mr. Jamieson: I will not but I am pointing out you are wrong in your assumption.

Mr. O'NEIL: I wish the Minister for Works would point it out more clearly. I say that there certainly must be something wrong with the provision because the member for Mirrabooka—a supporter of the Government—happens to have an amendment on the notice paper, the purpose of which is to deny the Government its intention to carry out portion of this amendment. This is my view and, at least to that extent, I am on his side.

I have said the measure contains a number of propositions which, in my view, are not vitally necessary. However, we express no real disagreement with them. Since they are so unimportant, we have not given consideration to their deletion. Even so, deletion may not be possible because the measure has been drafted in such a way as to make this extremely difficult. We have little alternative but to oppose the measure at its second reading.

MR. RIDGE (Kimberley) [5.38 p.m.]: I am not opposed to the Bill in its entirety, as the Deputy Leader of the Opposition said, but I am particularly concerned with the amendment contained in clause 7 which seeks to alter the internal boundaries of the four northernmost Assembly electorates so as to assign approximately one-quarter of the constituents to each of these four areas. I am not quite sure what the Government's motive is in doing this but apparently it is seeking to manipulate the numbers so as to include some towns, which have a traditionally Labor complexion, in electorates which are currently held by Liberal members of Parliament. I find this provision totally unacceptable from many points of view.

The measure makes provision for the four pastoral or mining electorates to vary in numbers by up to 20 per cent. more or 20 per cent. less than a quarter of the total voting population in those areas.

As at the 30th June, which was the date of the preparation of the draft electoral roll, the total enrolment for the four areas was 16,787. The maximum number of people allowed in any one area, on that basis, would be 5,036 whilst the minimum number would be 3,358. To bring each of the four electorates to a true quarter of the voting population would result in increasing the Kimberley roll by 846, the Gascoyne roll by 562, and the Murchison-Eyre roll by 2,379. On the other hand, the Pilbara roll would be reduced in number by the total of the three; namely, 3,787.

This may sound quite just and desirable but its practical effect would be to make the task of the members for Kimberley and Murchison-Eyre extremely difficult, because our boundaries would have to be extended quite considerably. This would result in many people, in the northern areas, being deprived of adequate representation.

It is bordering on idiocy to suggest that the two largest electorates in Western Australia should be considerably enlarged. Kimberley is already in excess of 250,000 square miles in area whilst Murchison-Eyre is in the order of 400,000 square miles. On the other hand, the Pilbara and the Gascoyne areas are quite compact little cells of 87,000 and 65,000 square miles respectively.

I appreciate that, in numbers, our electorates are small but when it comes to the task of representing the territory the electorates are indeed very large. In fact, it is quite difficult for the members concerned to cope. Both electorates cover a fairly large number of pastoral properties. Most of these are quite remote from towns of any significant size. Because of their isolation, the people on these properties have problems which are peculiar to their particular electorates, and in an effort to provide good representation the members for the areas are subjected to high expenses, long periods away from home, many hours of travelling, not to mention various other factors.

Certainly, in my own case, I cannot afford to maintain a home in my electorate and, even if I could, I would not be able to spend much time there. Also I cannot afford to keep a car in my own electorate and, once again, even if I could it would not be of much use because if the car were in Broome and I wanted to go to Wyndham I would have to travel about 1,000 road miles which is the distance between the two centres. Accordingly, we must resort to the use of hire vehicles. Within the last couple of weeks I hired a car and travelled 700 miles in two days. I went to Beagle Bay, Lombadina and One Arm Point, and the following day to La Grange. I appreciate that 700 miles is not a great distance but when one is forced to pay $15 a day hire charge; $4 a day insurance; the cost of petrol and oil; as well as the mileage rate on top of that, it makes a big hole in one's electorate expenses.

On the other hand, when Government employees go to the north they obtain a car from the M. & P. E. If there were a proposal in the measure something along the lines whereby members of Parliament

would be given the opportunity to hire M. & P.E. vehicles at the Government rate, I would perhaps agree with the provision.

Fortunately, there are regular airline services throughout my electorate and there is also a station service operated by MacRobertson Miller Airlines. At least, it is at the present time but perhaps it will not be in the future as a result of the Federal Government's recent Budget proposals.

It is impossible to visit stations by using M.M.A. station air services because the aircraft lands at a station only long enough to pick up and put down passengers or cargo. Generally the aircraft is there for only two to three minutes and, even so, it is usually a few weeks between aircraft flights to a particular station. So from that point of view the service is not of much use. As I say, we resort to the use of hire cars or we thumb a lift to get to some of these properties.

In my own electorate the bulk of the population is concentrated in an area north of Halls Creek, or perhaps Balgo in the east of the electorate, and north of La Grange Mission, which is in the west of the electorate. The area south of that is composed mostly of the great sandy desert. Therefore, a natural barrier of 300 or 400 miles exists between the northernmost Pilbara centre and the southernmost Kimberley centre. To increase my electorate in number of electors would involve taking in the area past the natural barrier we already have, and extending it down to, say, Goldsworthy or Shay Gap, and this would split my electorate in two very effectively.

It is for this reason that I am opposed particularly to the Bill. It is just not feasible for a member to cover such a large area. As I have said, I appreciate that I represent a small number of electors, but I believe representation in the north must be considered on the basis of area and not on the basis of the number of electors. I oppose the Bill.

MR. COYNE (Murchison-Eyre) [5.46 p.m.]: I, too, rise to oppose the Bill, and particularly clause 7. My electorate has many similarities with the Kimberley electorate. I would like to outline the reasons for my belief that it is not a good idea to interfere with the present arrangement of boundaries.

The Murchison-Eyre electorate covers nearly 400,000 square miles and embraces nine shire councils. The total number of electors in the area is about 1,818. To achieve a balance in the four electorates we are considering, the Murchison-Eyre electorate would have to cover a far greater area. I believe that the Pilbara would be the only area which could provide the considerable number of electors necessary to bring my electorate up to 25 per cent. of the total number of electors in the four electorates. One of the main objections to this proposition would be the difficulties we would experience in servicing the electorates. The Pilbara, and particularly Newman and Paraburdoo, have no affinity with the Murchison-Eyre electorate. There is no communication at all between the townships in my area and those in the area of Paraburdoo and Newman.

At the present time we experience real difficulties in endeavouring to cover the whole area. The Murchison-Eyre electorate extends to the Western Australian border—and Laverton is the only town of any consequence in the eastern section—and to Menzies in the south. To enable me to service the area I have found I must have a car available at all times. By commuting by air and then using the car, I can cover the area effectively. However, if Paraburdoo and Newman were included in the electorate, it would be almost impossible to service it. The electors would be denied effective representation by their member.

In my opinion this legislation is premature because the Murchison-Eyre electorate is on the verge of a tremendous boost in population. By this time next year it is hoped that an additional 150 homes will have been built in Laverton and it is envisaged that the population will have increased substantially. It is anticipated that Laverton's population will rise to something like 1,200 people and this would create an immediate imbalance of the proposed electorates.

Although the Perseverance project at Agnew is in difficulties at the present time, it is envisaged that a population of 5,000 will be necessary in this township when this project gets off the ground. So even in the short term—say three or four years—the population in the Muchison-Eyre electorate will change dramatically. We would then need to reverse any decision made in relation to boundaries. It is for these reasons that I object to the legislation.

MR. T. D. EVANS (Kalgoorlie—Attorney-General) [5.51 p.m.]: I thank the members who have spoken during the debate. The Deputy Leader of the Opposition gave a clear and a brief exposition—I was most impressed by this—of the cardinal features of the Bill. Whilst I appreciated his assessment of the legislation, I must say I was disappointed that he indicated opposition to the Bill on behalf of his colleagues.

I realise, of course, we are proposing an amendment to the Electoral Districts Act, and one of the main features of this Act is that any amending legislation must command an absolute majority at the second and third reading stages in this House. I need not contemplate the fate of this measure, or any fate at all, in another

place. Whilst many of us would like our speeches to become immortal, on this occasion I do not intend to make mine eternal. I have to assume that this measure has little future. When I set the notice paper tonight, I will probably have one less Bill to contend with.

I regret that the Opposition has taken this attitude and I would again make a brief explanation of the main features of the Bill. With the exception of clause 7(b), the amendements set out in the measure were all recommended by the former chairman of commissioners appointed under legislation approved of, and indeed initiated, by the Brand-Nalder Government—I refer to the report of Sir Albert Wolff, the Chief Justice of Western Australia at the time, and chairman of the three-man commission.

I agree that some explanation is required in relation to clause 7 of the Bill which sets out an extension in the tolerance available to the commissioners—the tolerance is to be increased from 10 per cent. to 20 per cent. This was a recommendation of Sir Albert Wolff and handed down in 1966. It appears that the former Government did give some drafting attention to Sir Albert Wolff's recommendations. However, no legislation was brought to this Parliament.

It is interesting to note that the member for Mirrabooka has indicated his intention to move an amendment to this clause to retain the 10 per cent. tolerance. On this occasion the Deputy Leader of the Opposition finds himself in full accord with the member for Mirrabooka. I suppose I must live and learn!

I would like to pass to the comments made by the member for Kimberley and the member for Murchison-Eyre. Both members objected to the provisions of clause 7, and I believe it is desirable to put forward a defence of the proposals; it may not be necessary, but I feel it is desirable. This provision is the result of an attempt to bring about greater equality in the voting strength of residents within a given area already set aside as a statutory area under the Electoral Districts Act. This statutory area was created by the Brand-Nalder Government and it comprises four Assembly electorates, and it was set aside as a privileged part of the State pursuant to the Electoral Districts Act.

It is not our intention to extend the boundaries by one inch; all we are attemping to do is to bring about greater equality in the voting strength between persons living in different parts of this statutorily privileged area. The present measure is a compromise between that desire and the recommendation that it is important for constituents to have access to their member. Both the member for Murchison-Eyre and the member for Kimberley spoke about this—the need for constituents to have access to their representative and vice versa. On this side of the House we believe this is a very vital principle but it should not be achieved or sought to be achieved by gerrymandering the elecorates. It should be sought to be achieved by making other rights and privileges available to the members concerned, and if necessary, available to the constituents so that accessibility can be achieved.

To this end the present Government has given the two members concerned the right to unlimited air fares to the north. Under the Brand-Nalder Government, the members were entitled to a limited number of air fares to the north. We are not attempting to achieve this accessibility by gerrymandering the electorates, but we do appreciate and recognise the principle of accessibility between the member and his constituents. A step in this direction is the setting up and maintenance of this privileged area in the State.

Mr. O'Connor: Were you not the first gerrymanderers?

Mr. A. R. Tonkin: That is not the point.

Mr. T. D. EVANS: I cannot understand the question, let alone the motive of the person asking it.

I regret that the Opposition has adopted this attitude to the legislation. I conclude my remarks by pointing out that with the exception of the provisions to which I have just referred, the legislation is based on the recommendations of the commissioners appointed by the previous Government.

The SPEAKER: I warn members that this question requires a constitutional majority.

Question put.

The SPEAKER: As there is a dissentient voice I shall divide the House.

Bells rung and the House divided.

The SPEAKER: As there is not an absolute majority of members present and voting in favour of the motion, I declare the question negatived.

Question thus negatived.

Bill defeated.

CONSTITUTION ACTS AMENDMENT BILL

Second Reading

Debate resumed from the 8th May.

MR. O'NEIL: (East Melville—Deputy Leader of the Opposition) [6.01 p.m.]: This is the second of three electoral Bills which the Government is presenting to the Parliament. We have spent some time discussing parts of the Electoral Act itself, but this measure is one which seeks to amend the Constitution Acts Amendment Act.

These Bills contain what appear to be rather innocuous provisions, but in some respects we on this side of the House are

rather suspicious of them. There is a provision that in the future a person of the age of 18 and over may become a member of the Legislative Assembly, and a further provision which states that a person of the age of 18 and over may become a member of the Legislative Council. We cannot disagree with those provisions because it was the Brand-Nalder Government which introduced legislation—I think the first in Australia—to give 18-year-olds the right to vote, and the State Parliaments are now in the process of reducing the age of responsibility within their Statutes to 18 years—an inevitable course which some older heads may think to be unwise, but which has my support.

I think it is fair to say that, with improved education facilities and with more active participation within the community effort by young people, in addition to their having greater privileges they should also have greater responsibilities, and representing the people in this Parliament is more a responsibility than a privilege. Therefore I repeat that we cannot disagree with that proposition put forward by the Government. As I have mentioned, it may well be that some people may think we are making haste too quickly, but let us wait and see.

Clause 5 of the Bill is the only other provision which covers two different areas. Firstly, it seeks to remove the disqualification of a minister of religion from becoming a member of Parliament. Whilst making his second reading speech the Minister stated that such a provision does not appear in similar Commonwealth law, and I must agree with him. However I wonder whether such a provision does appear in some of the Statutes of the other States. I wonder too about the original reason for denying a minister of religion from becoming a member of Parliament. Explanations in regard to the points I have raised were not made by the Minister in his second reading speech so perhaps he may be able to explain to us the reasons for such disqualification when he replies to the debate.

Mr. Jamieson: You will know, surely, that there was a State church when the original Constitution was debated.

Mr. O'NEIL: I would point out to the Minister that the only questions a member asks in this place are the ones to which he knows the answers.

Mr. Hartrey: A bishop was never allowed to become a member of the House of Lords, and therefore a parson was not eligible to become a member of the House of Commons.

Mr. O'NEIL: We are now getting many and varied explanations, but I wish to raise another query concerning this provision. In general terms I cannot understand why a minister of religion, as distinct from anyone else, should be denied the right to stand for a seat in Parliament. Whether I would like to see a minister of religion in this House is another matter, but I would like to know the reason behind such a disqualification.

Mr. Jamieson: Even when he revokes his ordination a minister of religion is still not eligible to become a member of Parliament.

Mr. O'NEIL: As far as we on this side of the House are concerned we would still like some further explanation, because it seems patently unfair that because of a man's vocation he is denied the opportunity to represent the people in the Parliament. In saying that I must point out again that, at times, this is more a responsibility than a privilege.

There is another matter which is of some concern to me and I trust that I may obtain some explanation in regard to it. There is a provision, of course, which denies a person who has been attainted of treason or found guilty of a felony from becoming a member of either House of Parliament. We did have some discussion on the matter of a person found guilty of treason in respect of the Electoral Act, but I will not go into that at the moment. However I would like an explanation from the Minister as to what in fact is a felon and what in fact is a felony.

Mr. Hartrey: It is a crime.

Mr. O'NEIL: It must be something which is a little more than that. There must be a compartment into which one puts a felony, or where one puts a mistrusted person. Perhaps once again this is one of those old words which should be removed from our Statutes, but let us say it is a matter which is of extreme interest to me.

I point out to the Minister, too, that the Bill will not do what the Minister has said it will do. During his second reading speech the Minister had this to say—

> Clause 5 will also remove the disqualification of any person who has been, in any part of Her Majesty's dominions, attainted or convicted of treason or felony, that person having repaid the debt to the community assessed by the laws of the community.

If my understanding of this provision and associated laws is correct, a person who has been found guilty of treason still cannot become a member of Parliament, no matter what the Minister seeks to do. In order to make these matters perfectly clear I will read from some of the brief notes I have made. Section 7 of the parent Act prescribes the qualifications that are necessary for a person to become a member of Parliament. In broad terms those qualifications are, firstly—

Mr. Hartrey: From what are you reading?

Mr. O'NEIL: Section 7 of the principal Act.

Mr. Hartrey: The 1899 Act?

Mr. Jamieson: The Constitution Acts Amendment Act.

Mr. O'NEIL: The member for Boulder-Dundas can check it later if he so desires but I am using my own words to describe the words contained in that section. The first qualification of a person wishing to become a member of Parliament is that he has to be resident in the State of Western Australia for one year. Secondly, under the proposals in this Bill, he has to be of the full age of 18 years; currently that age is 21 years. Thirdly, he has to be a natural born subject of the monarch; and, fourthly, he must qualify to be an elector. In other words, he must either be an elector, or qualify to be an elector.

If we look at section 18 of the Electoral Act it indicates those persons who are not entitled to be enrolled or, if enrolled, are not entitled to vote. Those so disqualified from being enrolled or, if enrolled, disqualified from the right to vote, according to the Minister's assurance and in accordance with the proposed amendment to section 18 of the Act which is currently before the Parliament, would include every person convicted of treason. Therefore it follows that such a person cannot sit in either House of Parliament and it also follows that the Minister's statement is misleading. I would suggest, therefore, that the Minister should check his statement very carefully.

When introducing the Bill the Minister said that a person who has been convicted and who has served a penalty for treason can become a candidate and can sit as a member in either House of Parliament, but in the Electoral Act itself such a person is denied the right to have his name on the roll; he is denied the right to be an elector. So it is that particular disqualification which denies him the right to be in the House. In general I think the section certainly needs clarifying and I would like to express our viewpoint on this. We propose to allow the Bill to pass the second reading stage. The Minister appreciates that this measure, too, requires a constitutional majority before it is passed by this House. As I have said, we propose to allow the Bill to pass through the second reading and in the Committee stage—I do not think it is necessary for me to put my amendment on the notice paper—we propose to move an amendment to delete paragraph (b) of clause 5 appearing on page 2 of the Bill.

I am referring to that provision which seeks to delete a certain passage in the parent Act. It proposes to delete the passage which reads—

> Has been in any part of Her Majesty's dominions attainted or convicted of treason or felony.

I believe that such a provision is completely unnecessary, because even if the passage is deleted the person found guilty of treason and who has served a sentence for that crime still cannot serve in this Parliament because he is not qualified to be an elector. Therefore we propose to move for the deletion of that particular paragraph of clause 5.

I want to indicate now that recognising that this measure requires a constitutional majority we do not propose to oppose it at this stage, but our attitude towards the Bill when it reaches the third reading will be determined by the attitude of the Government towards the amendments we propose to put forward in the Committee stage.

MR. T. D. EVANS (Kalgoorlie—Attorney-General) [6.12 p.m.]: I thank the Deputy Leader of the Opposition for his clear analysis of the Bill and again I am impressed by his brevity. I am also impressed by his qualified support of the measure. I would indicate that I am prepared—with the support of the Opposition, knowing that this Bill has to command an absolute majority before it is passed—to take the Bill into Committee and then ask that progress be reported in order that I may study the significance or the effect of the amendment or amendments proposed by the Deputy Leader of the Opposition. Once again, at this stage, I thank him for the support of the Bill he has so far indicated.

Question put.

The SPEAKER: To be carried, this motion requires an absolute majority. I have counted the House and there being an absolute majority present; and, there being no dissentient voice, I declare the question carried.

Question thus passed.

Bill read a second time.

In Committee

The Chairman of Committees (Mr. Bateman) in the Chair; Mr. T. D. Evans (Attorney-General) in charge of the Bill.

Clauses 1 to 4 put and passed.

Progress

Progress reported and leave given to sit again, on motion by Mr. T. D. Evans (Attorney-General).

Sitting suspended from 6.15 to 7.30 p.m

WORKERS' COMPENSATION ACT AMENDMENT BILL (2ND.)

In Committee

Resumed from the 20th September. The Chairman of Committees (Mr. Bateman) in the Chair; the Minister for Labour (Mr. Harman) in charge of the Bill.

Clause 6: Amendment to section 8—

Progress was reported after the clause had been partly considered.

Mr. HARMAN: Before progress was reported some questions were raised as to why the Chairman of the Miners Medical Board would be disqualified in certain circumstances while the other members of the board would not.

The purpose of the provision to disqualify the chairman is quite clear—if he has reported on the diseased worker—as it indicates to the ordinary members that the provision does not apply to them. The intent is to ensure that justice should not only be done but should also be seen to be done. It is therefore essential that the Chairman of the Miners Medical Board be known to be impartial.

Prior knowledge of a patient by an ordinary member of the board does not transcend the legal principle that justice must be seen to be done. It is generally accepted that chairmen do not vote unless it is to break a tie. In the situation where an ordinary member of the board has reported on a worker there must be disagreement between him and the other ordinary member before it is necessary for the chairman to vote. It is therefore not all important that ordinary members should not have prior knowledge because they have not got the casting vote.

I have been informed that even though there is no specific provision, as referred to by the Deputy Leader of the Opposition, providing for the disqualification of board members from voting, the inclusion of the clause will have the desired effect of disqualifying those specialists—who have previously reported on the diseased worker—from becoming chairmen of the medical board which is required to report on the worker.

I will deal with the questions raised on the other clauses when we come to them.

Mr. O'NEIL: I thank the Minister for his explanation. As I indicated we are not totally opposed to the reconstitution of the medical board. We simply want to know the reasons for such reconstitution; we want an answer to what I think was in fact an academic query on my part.

This is my third time of asking and for that reason I will not spend a great deal of time commenting on the other provisions in the clause. I previously indicated I would attempt to deal with most of the matters *in globo* and that I would speak only on those clauses which I propose to move to amend or oppose.

I have already discussed the provisions of paragraphs (d) and (e) of clause 6 and the matters which relate to the repeal of subsection (13) and subsection (14) of the particular section of the Act to which we are referring.

I move an amendment—

Page 7—Delete paragraphs (d) and (e).

Mr. HARTREY: It is highly undesirable that we should delete paragraphs (d) and (e). In the first instance the object is to abolish section 8 (13). That is an anomaly in workers' compensation. Beyond any doubt it should be abolished in the interests of elementary justice. To begin with it runs counter to a fundamental principle of workers' compensation, that an employer must take his employee as he finds him, and with all his faults. Under section 8 of the Act the employer may if he wishes require any employee to sign a declaration in writing that he has not suffered from a particular industrial disease. This is still provided by section 8 (4) of the existing Act, and we are not proposing to amend it. Section 8 (4) reads—

> If it is proved that the worker has at the time of entering the employment wilfully and falsely represented himself in writing as not having previously suffered from the disease, compensation shall not be payable.

So the employer can take that precaution when he sees fit.

But on the other hand if he does not do so there is no reason in heaven why a miner suffering from pneumoconiosis should be in a different position from any other employee in the State.

No man or woman on a farm, or in a mine or factory in this State who may be suffering from a weak heart, a kidney disease, asthma, or from chronic dyspepsia for that matter, but who is disabled by dermatitis contracted in a bakehouse or in a field from some detergent or exterminant with which he or she has been working, should have the complaint treated as having any relation whatever to the heart disease, kidney disease, or dyspepsia; and this will not be so.

A person who gets dermatitis, or lead poisoning in a mine where there is lead, or any person who gets radiation disease from an industry in which he is exposed to radium will get full compensation while totally incapacitated for earning his living; it does not matter what other disease he may be suffering from, because that makes no difference at all. He will get full or partial compensation while he is only partially handicapped for earning his living. But the unfortunate silocotic miner has a different standard applied to him. He is told "You have pneumoconiosis certainly, but you also have emphysema or nephritis—inflammation of the kidneys—or a systolic murmur of the heart, so you are not wholly disabled by pneumoconiosis. You are only 30 per cent. so disabled; the other 70 per cent. is due to the emphysema, the nephritis, or the systolic murmur of the heart".

That would not apply to anyone who developed lead poisoning while working in some mine, or to a farm worker who encountered some poisonous substance while the farm was being sprayed, or to a baker who after many years developed an allergy to flour. Such persons will not be told that they have so much wrong with their liver, their heart, or their skin and therefore they will get paid only so much for the scheduled disability, bearing in mind the percentage due to the skin complaint, to the heart complaint, or to the kidney complaint. The provision is unfair and we want it abolished.

On many occasions I have heard the Chairman of the Workers' Compensation Board advocate from the bench that this provision be abolished. I think it will now be abolished, and justly so.

Section 8(14) has become an anachronism. The Deputy Leader of the Opposition points out that it does lift the ceiling from the employer's liability, but so does the whole Act. That is the object of the Act. So there is no reason why this should not apply to miners, in the case of pneumoconiosis, as much as to anybody else.

The rest of the provision is a survival of something that existed long ago and was abolished. Section 8(14) reads in part—

> Notwithstanding any provisions of the Mine Workers' Relief Act, 1932 or any other provisions of this Act, the compensation payable to a worker, . . .

Section 52 of the Mine Workers' Relief Act originally provided that if a man were found to have advanced silicosis he was entitled to full compensation on the basis of total and permanent incapacity. Some shrewd heads used to apply for compensation on the basis of partial incapacity and get 30 or 40 per cent. compensation and then go back to the mines and work until they developed advanced silicosis when they would get 100 per cent. compensation. So it was possible for such people to obtain 140 per cent. compensation by using the Workers' Compensation Act and adding the provisions of the Mine Workers' Relief Act. But section 52 of the Mine Workers' Relief Act was abolished in 1964. So it is of no consequence whatever. Let us now abolish section 8 (14) of this Act.

Amendment put and a division taken with the following result—

Ayes—20

Mr. Blaikie	Mr. O'Neil
Mr. Coyne	Mr. Ridge
Mr. Gayfer	Mr. Runciman
Mr. Hutchinson	Mr. Rushton
Mr. A. A. Lewis	Mr. Sibson
Mr. E. H. M. Lewis	Mr. Stephens
Mr. W. A. Manning	Mr. Thompson
Mr. McPharlin	Mr. R. L. Young
Mr. Mensaros	Mr. W. G. Young
Mr. Nalder	Mr. I. W. Manning

(Teller)

Noes—20

Mr. Bickerton	Mr. Hartrey
Mr. Brady	Mr. Jamieson
Mr. Brown	Mr. Lapham
Mr. B. T. Burke	Mr. McIver
Mr. T. J. Burke	Mr. Norton
Mr. Cook	Mr. Sewell
Mr. H. D. Evans	Mr. Taylor
Mr. T. D. Evans	Mr. A. R. Tonkin
Mr. Fletcher	Mr. J. T. Tonkin
Mr. Harman	Mr. Moller

(Teller)

Pairs

Ayes	Noes
Sir David Brand	Mr. Bertram
Dr. Dadour	Mr. Bryce
Mr. O'Connor	Mr. Davies
Sir Charles Court	Mr. Jones
Mr. Grayden	Mr. May

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

Amendment thus negatived.

Clause put and passed.

Clause 7: Addition of sections 8A, 8B, and 8C—

Mr. O'NEIL: This clause proposes to add to the principal Act new sections 8A, 8B, and 8C. New section 8A reads as follows—

> 8A. Where before the coming into operation of the Workers' Compensation Act Amendment Act, 1973, the medical board then constituted under subsection (1d) of section eight of this Act had assessed a worker as being disabled by pneumoconiosis to the extent of sixty-five per cent. or more of full ability to earn wages, or, where after the coming into operation of that Act, the Miners Medical Board has assessed a worker as fit only for "light duties" or as being "unfit for work", and the worker subsequently dies from natural causes, his death shall, unless the employer proves the contrary, be deemed to have resulted from pneumoconiosis for the purposes of paragraph (a) of clause 1 of the First Schedule to this Act.

That simply means that any worker who has pneumoconiosis, previously assessed by the old medical board as being 65 per cent. or more, or assessed by the new Miners Medical Board as any percentage of pneumoconiosis at all, will have compensation paid as a result of his death from natural causes unless the employer—which in essence is the insurer—can prove otherwise.

I want to know this: How does one prove that a person died from other than natural causes?

Mr. Hartrey: He could get run over by a tram.

Mr. O'NEIL: But there must be other reasons; that is an easy explanation. If a person were run over by a tram in Perth he would not die of natural causes because there are no trams; such a person would

die of a supernatural cause! We should forget about an accidental injury which causes death, and which can be measured, but if a person dies simply because his heart stops beating—

Mr. Hartrey: That is a natural cause.

Mr. O'NEIL: —and he has, in fact, had pneumoconiosis—

Mr. Hartrey: To an advanced degree.

Mr. O'NEIL: —to an advanced degree under the old board but to any degree under the proposed new Miners Medical Board, then my interpretation is that such a person is deemed to have died as a result of pneumoconiosis unless the employer can prove otherwise.

It appears to me that if a worker dies as a result of any natural cause, and he has had pneumoconiosis, then, unless the employer can prove otherwise, the worker is deemed to have died as a result of pneumoconiosis.

It might seem that a provision is included to ensure there is a remedy for the employer, as referred to in the Act, in the case of such a death. However it seems to me to be quite impossible for someone to prove that a person did not die of natural causes if, in fact, he expires. The member for Boulder-Dundas shakes his head.

Mr. Hartrey: The Deputy Leader of the Opposition has not read the section carefully.

Mr. O'NEIL: I purposely read it out to remind myself of the consideration I had undertaken to give this clause some time ago. It must be appreciated that when one switches from one piece of legislation to another—legislation not dealt with for some time—there can be some difficulty in interpretation. I would like an explanation from the Minister in respect of this clause. In any case, it can be seen from the notice paper that we on this side intend to oppose clause 7.

Mr. HARTREY: I would inform the Deputy Leader of the Opposition that the object of the clause is not what he claims at all. He has not stated it fairly because it sets out that where, before the coming into operation of this proposed legislation, the medical board, then constituted, has classified a man as 65 per cent. disabled from earning full wages or where under the new Act he is assessed as fit for "light work only", then if that man does not get killed as a result of a traumatic cause, but dies a natural death—as coroners, the police, and lawyers understand the expression—he shall be deemed to have died of pneumoconiosis. That may seem a strange proposition to a layman.

Mr. O'Neil: It does seem strange to me.

Mr. HARTREY: It is difficult for a lay person to understand the law of workers' compensation. I want the Committee to understand it has never been required that a man shall die principally as a result of pneumoconiosis, and certainly it has never been required that he should die solely as a result of pneumoconiosis.

A judgment delivered in England in 1919 is still good law in Western Australia. "A claimant under the Worker's Compensation Act must prove that injury or death resulted from an accident arising out of or in the course of his employment. The result need not be a direct or a natural—or even a probable—consequence of the accident if, in fact, it is a result of the accident. It is enough that the accident caused, contributed to, or accelerated death." The immediate cause could be cancer or pneumonia. The immediate cause could be heart failure, but if the industrial disease caused, contributed to, or accelerated death, then it is deemed to have caused death within the meaning of the first schedule to the Act.

Unfortunately I do not have time to go into this matter more fully. It is enough that an accident should cause, contribute to, or accelerate death. That is the law today but it is very hard for a defenceless widow or children to fight an insurance company which has at its command all the legal ingenuity of the Crown Law Department. Members might be astounded at how far from the truth legal ingenuity can get. It is only fair that in the case of a fight between a widow—with her defenceless children—and an employer which is to say, the S.G.I.O., the odds should be levelled, to some extent, in favour of the widow and children.

That is all we are asking. The provision will not apply in every case, as has been implied by the Deputy Leader of the Opposition. It will apply only where a man is 65 per cent. disabled before the passing of this Act, or where a man is deemed to be fit for "light duties only" after the passing of this Act.

This proposal will not affect every man who suffers from silicosis. Many men have disabilities ranging from 15 per cent. to 30 per cent. and still do hard work. However, a man who, by reason of pneumoconiosis, is fit for light work only is well on the track towards his death.

A man breathes with his lungs, and he dies when he can no longer breathe. When a man who has had pneumoconiosis dies, he dies because of a cessation of breath, but his death would surely have been contributed to by the fact that he had lost 65 per cent. of his lung function. However, that cannot be proved because doctors sometimes say that they do not know, and that they could not say.

I will presently quote what was said by Mr. Justice Rich in the High Court. His judgment is a commonsense and fair way to look at things. When a disabled worker, with dependants, dies a natural death the

State Insurance Office will fight at the drop of a hat and to the last ditch to defeat a claim by his dependants. Of course, a man must die a natural death; it would be absurd to say that a man run over by a motorcar died as a result of silicosis. That would not make any sense because the silicosis would not have had any bearing on his death. If a man with silicosis were hanged, his death might be expedited by silicosis but perhaps it would be a more merciful death! We certainly would not be able to say his widow should receive compensation on the ground that he died from silicosis.

However, apart from such a death as that or death as a result of being run over by a bus or being stabbed in the street, if the man dies from natural causes the immediate cause of such a death is usually pneumonia, as the member for Subiaco would agree if he were here. However, the contributing cause could be silicosis. It does not have to be the only cause or even the principal cause. I will read these words—

> . . . but there are many cases involving a more difficult question in assessing the role, for example, of industrial lung impairment and it is in such cases that I think I have detected a tendency on the part of expert medical witnesses to reject a factor not because it does not exist as a causal factor but because it is not "important" or "significant" and in some instances a tendency to consider that the question is to be translated into some such terms as "what is a materially aggravating factor" or "a materially contributing factor"; and to assert that a factor cannot be such an aggravating or contributing factor if it plays a minor role or is quantitatively less than some other factor.

That is the way doctors argue when they come before the Workers' Compensation Board or the High Court of Australia. It is very difficult for a widow and children to be able to pay for sufficient legal and medical talent to toss that sort of argument. The passage I have just read is quoted from Judge Wall, who is a judge of the Workers' Compensation Commission in New South Wales. He further says—

> I think also there is a tendency in the expert's mind to eliminate a factor as a causal factor if the effect was likely to occur in any event without the implication of that factor.
>
> It is in these circumstances that I think it can be said that an expert may succumb to the temptation of usurping the judicial function.

In other words, they set themselves up as judges and try to blind the tribunal with science. They did not blind this man with science. He made it quite clear that silicosis did not have to be a major factor or the principal factor, and it certainly did not have to be the only factor. The case is that of Brown v. The State Coal Mines Control Authority, which is reported in the New South Wales *Workers' Compensation Reports* of 1958 at page 39, and I quoted from page 41.

I am trying to point out that this particular provision simply equalises a very unequal battle on very just grounds. About 1949 the Liberal-Country Party Government made it a rule that 65 per cent. silicosis was to be deemed to be 100 per cent. silicosis, and it remained that way until January, 1970, when the Liberal-Country Party Government abolished that concession. I got stuck into the members of the Government and they said, I suppose, "We will have to bring it back again." So it is now in the rules again. It is not in the law but it was made the rule.

When a man is deemed to be totally and permanently incapacitated for work when he has 65 per cent. silicosis, it is perfectly reasonable if he dies in that condition to assume that his death must have been contributed to by the diseased state of his lungs. The most vital organs in the body, apart from the heart and the brain, are the lungs, and when they are defective the oxygenation of the blood is defective and the rest of the body is robbed of vital sustenance so that one is not sound in wind and limb and is unable to combat disease. What chance has a man in that condition when he has a bad attack of influenza? I have had quite serious bouts of influenza and have recovered from them in a few days, but if I had had 65 per cent. silicosis I would not be addressing this Chamber today. If I had died in those circumstances people would say, "Poor devil, he got bubonic influenza, Bad luck!" I ask members to be fair and give the widows and orphans a chance. Let justice prevail in this Chamber.

Mr. HARMAN: The discussion on proposed section 8A and the explanation given by the member for Boulder-Dundas leave me little or nothing to say because I think the member for Boulder-Dundas has convinced members of the necessity to oppose the proposal of the Deputy Leader of the Opposition. Proposed sections 8A and 8B deal with three types of condition which the Government considers warrant special provisions in order to protect disabled workers and their dependants and, as has been ably illustrated in the last 15 minutes, we have every reason to believe that by incorporating these provisions in our Workers' Compensation Act we will be taking a step to ensure that justice is equalised and that the deceased prior to his death or the dependants of the deceased have an opportunity to argue their case. I ask the Committee to oppose the proposal of the Deputy Leader of the Opposition.

Mr. O'NEIL: I want to make some general observations relative to the manner in which we are discussing these provisions in Committee. Normally, each clause of a Bill deals with an amendment to one specific section of the parent Act, so one can talk about a section of the parent Act within the ambit of the clause. However, clause 7 of the Bill under discussion proposes the addition of three separate and distinct sections to the parent Act—sections 8A, 8B, and 8C. Each of those proposed sections deals with a different subject matter, so in speaking to the clause we are to a degree confined to speaking to the three subject matters as one.

In the Committee stage I have spoken only about the proposed new section 8A. I am on my feet for the second time and, because of the rules of debate which permit one to speak only three times, I shall not be able to deal with each of the three proposed clauses separately. As a matter of fact, in my suggested amendments I had indicated my intention to move for the deletion of each of those parts of the clause as separate amendments, but the wiser counsel of certain members prevailed and I agreed to ask the Committee to vote against the clause in order to achieve my end. It may have been for that reason that I spoke for 2½ or 2¾ hours during the second reading debate.

I am not complaining because we have discussed what will happen in respect of these three proposed sections. The member for Boulder-Dundas and I will find ourselves in the position of being unable to expand on the other provisions. We have expounded the broad, general principles in the second reading stage. However, one particular comment was made by the member for Boulder-Dundas and I wonder whether his point was valid.

The Committee must appreciate that the only insurance company which undertakes cover in respect of these diseases is the State Government Insurance Office—and not through choice, I think. A reading of the history of the mining disease pneumoconiosis—or silicosis as it was then termed—reveals that it was rather difficult to find any private insurer or groups of insurers who were prepared to undertake that kind of business. However, the parent Act which established the State Government Insurance Office sets out that one of its functions is to undertake workers' compensation insurance for mining diseases as no other company would do this. So therefore it has a monopoly—if it can be termed as such—of this business, but I am sure it would be quite happy to withdraw from this field.

Mr. Hartrey: I agree.

Mr. O'NEIL: We then come to the criticism made by the member for Boulder-Dundas that this office has the might and power of the Crown Law Department behind it.

Mr. Hartrey: That is true.

Mr. O'NEIL: I heard criticisms of this type whilst I was the Minister in charge of the S.G.I.O. and I took up the matter with the office. Many criticisms were made in regard to the S.G.I.O. agencies and whether or not the office operated on the cheap and therefore had an unfair advantage over its competitors. The general managers of the S.G.I.O. during the time I was the Minister for Labour would have been very happy to have disposed fully of what the office regarded as unwarranted criticism. The S.G.I.O. even went to the extent of employing its own counsel—a legal man was appointed to the staff. I imagine that this move was made to meet the criticism that the office was backed by the might and majesty of the Crown Law Department. However, according to the member for Boulder-Dundas—and one has to admit he is an expert, at least legally, in the matter of workers' compensation for mining diseases—the office is still served much better than are his clients, and also the clients of other legal practitioners. If this is so, then probably more consideration of this aspect is warranted. If the S.G.I.O. feels that one legal practitioner on its staff is inadequate to serve its purposes, it should employ more and gradually ease away from the Crown Law Department.

The Transport Commission may employ private practitioners when it wishes to take action against a person who has committed an offence against its regulations, and we then see some members of the Government criticising the fact that a Government department is using private practitioners rather than using those employed by the Government.

Mr. Harman: Did it not happen whilst you were Minister that the S.G.I.O. sought legal opinion outside the Crown Law Department?

Mr. O'NEIL: I am not sure about that. The S.G.I.O. was criticised, and this criticism came from the area of Kalgoorlie generally—I do not know whether it was from the member for Boulder-Dundas—that a Government office was solely in command of workers' compensation in relation to mining diseases and it was backed up by the very powerful and sometimes inexpert advice of the Crown Law Department. During the time I was Minister for Labour at least two general managers endeavoured to meet such criticism by appointing legal advisers to the staff. I do not know whether this move was successful, but I do know that the office was sensitive to the criticism that it received legal advice from the Crown Law Department.

Whilst I have not spoken about this particular clause, I have attempted to answer some of the comments made. It may well be that the State Government Insurance Office should not have the facilities of the Crown Law Department available to it.

Certainly the S.G.I.O. must pay the Crown Law Department for any advice it receives; there is certainly a book credit.

The CHAIRMAN: The honourable member has one minute.

Mr. O'NEIL: I believe the draftsman should look again at this type of clause proposing the addition of three sections. Each proposed section should have been the subject of a separate clause.

Mr. Hartrey: The draftsman prepared it that way.

Mr. O'NEIL: New sections 8A, 8B, and 8C are in fact to be separate sections.

Mr. Hartrey: That is right.

Mr. O'NEIL: Perhaps the Attorney-General could suggest to the draftsman that three new sections should not be included in the one clause. Because of the rules of debate, I may speak three times only unless I move separately and individually to delete each proposed section. My object is achievable simply by voting against the clause.

Mr. HARMAN: I will be very considerate and I will say a few words because I feel some arguments should be advanced in respect of proposed new sections 8B and 8C. The Opposition has indicated that the new sections should be deleted. However, on this side of the Chamber we believe that good reasons exist for their inclusion in the measure.

Mr. HARTREY: The Committee will readily appreciate that the same intention is behind each proposed section; that is, to cut a swathe, as it were, through the legal technicalities and medical complexities of the many conflicting theories which are always brought forth when the dependants of a deceased worker try to obtain elementary justice. My experience over some 35 years bears out this statement, and I am sure every practitioner of any note in this State who has had experience in this field will agree with me. In every case of a worker who suffers a heart attack or a cerebral haemorrhage whilst doing an ordinary laborious job, the odds are that the exertion of the moment contributed to the increased blood pressure which brought about the particular catastrophe. In a very famous case in Collie many years ago—Henderson v. the Amalgamated Collieries Co.—the applicant died of a coronary occlusion which was brought about by increased blood pressure after he had walked up a steep incline. A fall in blood pressure while he was resting precipitated the occlusion because his blood was not being pumped quickly enough to supply his unfortunate heart. However, the exertion undoubtedly contributed to it, and the magistrate held that this was so.

The Supreme Court of Western Australia upheld an appeal by the defendants, but the High Court of Australia restored the magistrate's decision and said it was common sense that the exertion had contributed to the man's death.

I would like to refer also to the case of the Adelaide Stevedoring Company v. Forst, 1964 *Commonwealth Law Reports* at p. 563. In this case quite a considerable number of professors of pathology and eminent medical practitioners in Adelaide tried to swamp the unfortunate widow and her family with medical science—and they succeeded. The judge of the first instance ruled that the widow had failed to prove her case.

However, the full court of the Supreme Court of Adelaide felt differently, and the High Court of Australia supported the Supreme Court and the widow's case for the following reasons, as found in the words of Acting Chief Justice Rich at page 563 of the *Commonwealth Law Reports*—

> In my opinion the conclusion of the Full Court is correct. I am greatly impressed by the sequence of events. The deceased, who had arrived at an age when arterio-sclerosis and atheroma afflict mankind, was a stevedore's labourer.

The judge then goes on to explain the sort of exertion the man was engaged in, and that the man fell dead a few minutes after being engaged in that exertion. He then goes on to say—

> Immediately after performing this task he collapsed. What weighs so much with me is the fact that he was brought to a standstill, as an ordinary lay observer would think, by the exertion he had undergone.

These are the significant words as far as the law is concerned and as far as common sense is concerned; and it is to the common sense of members that I appeal when I ask them to vote for proposed new section 8B—

> I do not see why a court should not begin its investigation, i.e., before hearing any medical testimony, from the standpoint of the presumptive inference which this sequence of events would naturally inspire in the mind of any common-sense person uninstructed in pathology. When he finds that a workman of the not-so-young standing attempts in a posture calculated by reason of the pressure on the stomach to disturb or arrest the rhythm of the heart a very strenuous task not forming part of his ordinary work and then collapses almost immediately and dies from a heart condition, why should not a court say that here is strong ground for a preliminary presumption of fact in favour of the view that the work materially contributed to the cause of death?

That is all we are asking here. We are not asking that it should go against the employer if the man is sitting at his crib and suffers a coronary occlusion and drops dead; we are saying that where a worker is disabled from earning full wages by a cardio-vascular or cerebro-vascular "accident" which occurs whilst he is actually engaged in the performance of his ordinary work, he shall be deemed to have suffered personal injury by accident within the meaning of the Act.

If that happens, as Acting Chief Justice Rich pointed out, why should not the court say that is a strong ground for a preliminary presumption of fact in favour of the view that the work materially contributed to the cause of death? Acting Chief Justice Rich continued—

> From this standpoint the investigation of physiological and pathological opinion shows no more than the current medical views find insufficient reason for connecting coronary thrombosis with effort.

If the widow must prove that her husband died of the exertion, she must satisfy the tribunal that that is more likely than not in medical terms. Well, it is not more likely than not if one doctor says, "I think so" and another doctor says, "I don't think so" and the matter is not determined. A man can die in bed of a coronary occlusion or of a cerebral haemorrhage. However, a man is far more likely to die of that sort of complaint, if he is predisposed to such a complaint, during the course of great exertion. Is there a specialist who would not say to a patient with high blood pressure and a strong disposition to such accident, "Don't engage in heavy work; don't exert yourself; and don't get emotional"? Yet, if in the middle of a fit of rage or whilst lifting a huge log in a mine, a man drops dead from such a complaint we say, "Oh, it is nothing; people die from that in bed."

We are saying that the onus of proof should be reversed because it is fair and just and in keeping with common sense to do so. Let me conclude with these words of Acting Chief Justice Rich, because they are important—

> Be it so. That to my mind is not enough to overturn or rebut the presumption which flows from the observed sequence of events. If medical knowledge develops strong positive reasons for saying that the lay common-sense presumption is wrong, the courts, no doubt, would gladly give effect to this affirmative information. But, while science presents us with no more than a blank negation, we can only await its positive results and in the meantime act on our own intuitive inferences.

I am asking this Committee, as an assembly of intelligent and just men, to act on its intuitive inferences in this matter upon which doctors differ. One specialist will say that there is nothing at all to connect thrombosis with effort, and another will say the onset of thrombosis is often accompanied by effort.

The CHAIRMAN: The honourable member has one minute.

Mr. HARTREY: At the moment the tribunal may say that it is not satisfied that the widow has established her case. We want to reverse that so that the tribunal must satisfy itself that exertion did not cause the accident. In that case the common sense that Acting Chief Justice Rich spoke about will prevail.

Mr. MENSAROS: I wish to deal only with that part of the clause which proposes a new section 8B, and I undertake this task on behalf of the Deputy Leader of the Opposition because he has already spoken twice. The member for Boulder-Dundas pointed out certain aspects of the provisions of the clause, and one would be in sympathy with him if only those circumstances to which he referred could ever occur. As the honourable member himself said, there could be considerable medical doubt as to whether or not or to what extent the influences of the moment contributed to a heart attack or stroke suffered by a worker and to his death, which might occur immediately or in three months' time. I emphasise that this position has by no means been declared by the medical profession; and I am sorry the member for Subiaco is not here to throw more light upon it.

However, the provisions have another aspect. A man may have a chronic heart disease, and he should be encouraged to live a reasonable life and not to retire and to live as one half dead. He should be encouraged to do certain work, which according to present medical knowledge will not harm him. It is often said that such people must be encouraged to live a normal life. What will happen to such a man under the provisions of the Bill? No employer of sound mind would employ him because he is much more prone to a heart attack even in the course of light work as a result of his chronic heart disease. He may have had one, two, or three heart attacks already. An employer who has in the past out of consideration and a commendable sense of social responsibility employed such people will not dare to do so because his insurance premiums will skyrocket. The employer will be in a position of having to pay the maximum compensation to the man's family if he happens to suffer a heart attack whilst doing work, no matter how light, given to him by the employer as a result of his consideration for the employee.

So if these provisions stand as printed we will prevent the rehabilitation of such workers when they have suffered a heart attack or a mild stroke but have recovered sufficiently to perform light work. Such a worker may be impaired by not being able to use a limb, but may be perfectly capable of working, say, a telephone switchboard. So if the only reason for inserting this new section 8B in the Act is the one given by the member for Boulder-Dundas, the Bill should have been drafted differently. If this were done it would not have the disadvantages I have just enumerated, but it may have the advantages that have been referred to by the member for Boulder-Dundas, although, as I have said, he is not 100 per cent. right and the honourable member himself has stated he is not 100 per cent. right, because the medical opinions are different. This provision of the Bill introduces an aspect of social welfare as opposed to workers' compensation and leaves it to the employer to pay the social benefits.

Whilst on this part of the clause, there is another aspect which works against the contention put forward by the member for Boulder-Dundas, because he appears to be in charge of the Bill. I am referring to that part of the drafting which contains the words, "in the performance of his ordinary work". According to my interpretation this would mean that if a man is employed to perform simple clerical work at a desk and he has a heart attack whilst working he will come within the provisions of proposed new section 8B. His family would be fully compensated if he died within three months. However, if this man is called away from the performance of his ordinary work and is asked in a polite way to help unload a delivery truck because there are insufficient men to carry out this task, and he suffers a heart attack during this time, he would not be entitled to any compensation because that would not be his ordinary work. Therefore there is something screwy about this provision.

Mr. Hartrey: It only means that there would not be any presumption on the part of the other party.

Mr. MENSAROS: But the onus of proof again rests on the employer.

Mr. Hartrey: That is right.

Mr. MENSAROS: Therefore if a man is employed as a clerk—which is his ordinary work—and he is suddenly politely asked to go to the storeroom to help unload a truck and he suffers a heart attack whilst employed on that work he will not come within the provisions of this proposed new section because he was not employed on his ordinary work. He is then in a position which the member for Boulder-Dundas condemned a moment ago, and yet, to my mind, if we look at justice and equity, he would be more entitled to the payment of compensation and the onus would be more on the employer than it would be if he suffered a heart attack whilst employed on his ordinary work.

Mr. Hartrey: You can move an amendment if you so desire.

Mr. MENSAROS: I do not want to move an amendment as I oppose the whole clause, but I will point out that during all the time that has elapsed since the introduction of the Bill we still finish up with such drafting. In my view it is entirely unnecessary to include "performance of his ordinary work" in the provision.

Perhaps there is a third consideration here. What happens if such a man has a heart attack whilst travelling to work? In view of the progress of the Bill so far such a journey could be made during the weekend when the employee is travelling to his normal residence from the residence which he took up whilst he was employed in, say, the north. In the meantime he may be engaged on holiday activities, because as we have dealt with this part of the Bill already it is now provided that he is so covered during such activities. Then, if the member for Boulder-Dundas is correct, the circumstances of the moment would greatly contribute to such a worker suffering a heart attack. He may have a heart attack whilst boating or whilst engaged in any sport, or whilst he is in the process of travelling between his place of temporary residence—provided for him by his employer because he works far away from his normal residence—and his normal residence.

Mr. Hartrey: We do not propose to amend section 7 (1b) of the Act, and I draw the honourable member's attention to that subsection.

The CHAIRMAN: Order! The member for Floreat should be permitted to make his speech.

Mr. MENSAROS: The member for Boulder-Dundas will appreciate that time does not allow me to check his reference to the Act presently, but if my memory serves me correctly we have already agreed to amend the Act to compensate a worker who suffers an injury whilst travelling between his temporary residence and his normal residence.

Mr. Hartrey: But not in regard to this type of accident.

Mr. MENSAROS: I would not contradict the member for Boulder-Dundas because I would need to have time to ensure that what he says is correct. I do not entirely oppose the first submission of the member for Boulder-Dundas, but in my opinion it should definitely have been drafted in a different way to give the family of the deceased more right of proof—but not in

an all-embracing way—which would cover such a family in all circumstances if the worker had a heart attack.

Clause put and a division taken with the following result—

Ayes—20

Mr. Bickerton	Mr. Hartrey
Mr. Brady	Mr. Jamieson
Mr. Brown	Mr. Lapham
Mr. B. T. Burke	Mr. McIver
Mr. T. J. Burke	Mr. Norton
Mr. Cook	Mr. Sewell
Mr. H. D. Evans	Mr. Taylor
Mr. T. D. Evans	Mr. A. R. Tonkin
Mr. Fletcher	Mr. J. T. Tonkin
Mr. Harman	Mr. Moller
	(Teller)

Noes—20

Mr. Blaikie	Mr. O'Neil
Sir Charles Court	Mr. Ridge
Mr. Coyne	Mr. Runciman
Mr. Hutchinson	Mr. Rushton
Mr. A. A. Lewis	Mr. Sibson
Mr. E. H. M. Lewis	Mr. Stephens
Mr. W. A. Manning	Mr. Thompson
Mr. McPharlin	Mr. R. L. Young
Mr. Mensaros	Mr. W. G. Young
Mr. Nalder	Mr. I. W. Manning
	(Teller)

Pairs

Ayes	Noes
Mr. Bertram	Sir David Brand
Mr. Bryce	Dr. Dadour
Mr. Davies	Mr. O'Connor
Mr. Jones	Mr. Gayfer
Mr. May	Mr. Grayden

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

Clause thus passed.

Clause 8: Repeal of section 10—

Mr. O'NEIL: The clause seeks to repeal section 10. This relates to the deletion of the provision in respect of hernia being a compensable disease under any circumstances. If a hernia is proved to have been caused as the result of an accident, and certain conditions obtain, then basically it is a compensable injury.

What the clause proposes is to delete any qualifications in respect of admitting hernia as a compensable injury. This is another matter which we discussed very fully in the second reading debate, and also we have had the benefit of the advice of the member for Subiaco, who is a medical practitioner. It is our intention to oppose the clause.

Mr. HARMAN: I am somewhat surprised at the opposition to this clause, because there is no such restrictive provision in any other Act in Australia. The provision was inserted into our Act as a result of a Royal Commission in 1948. When one looks at the evidence given before that Royal Commission, one finds no strong grounds to support its inclusion.

The Deputy Leader of the Opposition has referred to the remarks made by the member for Subiaco, who is a medical practitioner. I have looked through his remarks; and one is that there is nothing difficult about diagnosing hernia, and he said he has never had a case knocked back yet.

It would appear that with the advance of medical knowledge it is now possible to determine the cause of a hernia; and the member for Subiaco was correct in what he said. He made the point that if a worker did not comply with the conditions in section 10 of the Act that the hernia was clearly the result of an accident at work, the Workers' Compensation Board generally exercised discretion in awarding compensation. Hernia claims which were declined, due to noncompliance with the conditions, when taken to the Workers' Compensation Board generally resulted in successful applications unless the hernia was clearly not a work-caused injury.

Where the declaration of a hernia claim has been upheld by the board, it has been under the operation of the Act, rather than the restrictions imposed by section 10. As there is no such restriction in any other workers' compensation legislation in Australia, and as the member for Subiaco has admitted there is nothing difficult about diagnosing hernia and the causes contributing to that condition, why is there a need to retain the provision in section 10 of our Act?

Mr. HARTREY: I support strongly the argument put up by the Minister. Not only do I agree that there is no other Act in any of the other States of Australia which contains the provision in section 10 of our Act, but I would remind members it was quite a new intrusion into the Act of Western Australia.

The first Workers' Compensation Act in Western Australia was passed in 1902; and the second in 1912. The next major amendments were made in 1924, and again in 1927. Quite substantial amendments were made later, around 1944. The first time the provision which now appears as section 10 was inserted was in 1948, and the Act had by then become quite familiar in Western Australia. However, there was no great rash of claims for compensation for hernia at any stage between 1901 and 1948.

We know that people were persuaded to believe that certain medical theories were highly credible, when in fact they really were not. Injustice is very often inflicted on people living in the country, particularly in the more remote parts, by the insistence on complying with the rigmarole prescribed in section 10. This section states—

> Hernia is clinical hernia of disabling character appearing to have recently occurred for the first time.

If the hernia is not of a disabling character no compensation is payable. However, hernia is always of a disabling character

unless it is attended to and treated promptly; if not then an operation subsequently can be a very serious one, and a greater period of time is required for recovery.

A clinical hernia is one which is discernible clinically. Any one of us could discern a clinical hernia, because it protrudes from the body. There are several kinds of hernia, but the common one which is generally referred to is inguinal hernia. An inguinal hernia is usually caused by exertion, but only in certain men. It cannot be induced in women, but only in certain men.

There is a passage on both sides of the body through which the testes descend into the scrotum at a very early age; but that passage seals off subsequently. A man who suffers from a heart attack will not develop an inguinal hernia, if the passage has sealed off. People do not always know about the presence of hernias. I have known several cases where the person concerned felt a sharp needlelike pain in his groin, but the pain passed off and the person went on with his work. It was only a couple of days later that he discovered a small protrusion. Such a person has not fulfilled the prescription that was included in the Act by the 1948 amendment.

If a person lives in a place where the doctor comes by aircraft once a week, how could we expect him to comply with section 10? There are many centres in the north-west of the State where the person suffering from a hernia cannot possibly comply with the stipulation that he must obtain a certificate from a medical practitioner within 72 hours of the accident. He might not be able to see a doctor until a fortnight later. Very often a person in this position is able to see a doctor only once a week. Furthermore, during inclement weather the aircraft might not be able to land, and he might not be able to see a doctor before three weeks.

So what is the good of these fantastic provisions when no real demand exists for them and when no other State in Australia has adopted them?

What the member for Subiaco said is perfectly true. If a case is genuine it is not hard for the doctor who performs the operation to ascertain this. It is easy for a doctor to discern whether or not a hernia has been suffered recently. This can be decided very largely by the size of the protrusion. A doctor performing the operation can also tell from the internal appearance whether the hernia was suffered recently or whether the patient has had it for a long time.

A hernia can be caused in various ways, including violent coughing. However, it is usually suffered as a result of the lifting of something heavy. If a man lifts something heavy and then immediately complains of a sharp pain in the groin which makes him catch his breath, it is perfectly plain that he has a good case. On the other hand, if the man is putting it on, the doctor involved can easily tell whether or not the hernia is of recent origin or is the result of a motor accident or some other accident which occurred some time previously.

Elaborate precautions are a lot of nonsense and merely inflict obstacles on genuine cases. They do not do anything extra to protect the employer from non-genuine cases because it is easy to distinguish between the genuine and non-genuine cases by obtaining the evidence of the man who repairs the hernia.

Therefore why not get rid of the stupid legislation which inflicts hardship on those who work furthest from medical attention and gives no additional protection to the employer?

Clause put and a division taken with the following result—

Ayes—20

Mr. Bickerton	Mr. Hartrey
Mr. Brady	Mr. Jamieson
Mr. Brown	Mr. Lapham
Mr. B. T. Burke	Mr. McIver
Mr. T. J. Burke	Mr. Norton
Mr. Cook	Mr. Sewell
Mr. H. D. Evans	Mr. Taylor
Mr. T. D. Evans	Mr. A. R. Tonkin
Mr. Fletcher	Mr. J. T. Tonkin
Mr. Harman	Mr. Moller
	(Teller)

Noes—20

Mr. Blaikie	Mr. Nalder
Sir Charles Court	Mr. O'Neil
Mr. Coyne	Mr. Ridge
Mr. Gayfer	Mr. Rushton
Mr. Hutchinson	Mr. Sibson
Mr. A. A. Lewis	Mr. Stephens
Mr. E. H. M. Lewis	Mr. Thompson
Mr. W. A. Manning	Mr. R. L. Young
Mr. McPharlin	Mr. W. G. Young
Mr. Mensaros	Mr. I. W. Manning
	(Teller)

Pairs

Ayes	Noes
Mr. Bertram	Sir David Brand
Mr. Bryce	Dr. Dadour
Mr. Davies	Mr. O'Connor
Mr. Jones	Mr. Runciman
Mr. May	Mr. Grayden

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

Clause thus passed.

Clause 9: Addition of sections 12A, 12B, 12C, 12D, 12E, and 12F—

Mr. O'NEIL: The clause provides for the rapid and early payment of compensation to ensure that a disabled worker suffers no major setback when, in fact, he is eligible to receive compensation. If members study the amendments on the notice paper they will see that in general terms we agree with the proposition to facilitate early payment of compensation. It is my understanding that in the great majority of cases not a great deal of delay occurs if, in fact, the requirements concerning the making of the claim are met.

I will deal in general terms with the amendments we propose before I move them. The Bill provides that the first payment shall be made to the worker not later than two weeks after he has provided evidence of his incapacity. Another provision is that any employer who disputes his liability to pay compensation under the Act may, within the period of two weeks previously mentioned, make a relevant application.

While not disagreeing with the principle, we believe that the period of two weeks is insufficient. For instance, because of the remoteness of a man's place of employment and the necessity for the claim to be forwarded in due course to the principal office of the company and then to the insurer, two weeks might not be enough. In most cases the period could be sufficient, but in order that no undue burden be placed on those in remote areas we propose that the period referred to be changed from two weeks to three weeks. I therefore move an amendment—

> Page 9, line 7—Delete the word "two" with a view to substituting the word "three".

Mr. HARMAN: The I.L.O. stipulates that five days is the period in which the arrangements should be made and the injured worker paid. We realise that five days is not practical in this State and so we have provided that the period shall be two weeks. I am sure other members like myself have been approached by electors concerning the delays which take place in the payment of compensation.

Just recently, in my ministerial capacity, I took steps to ensure that such delays do not occur in respect of Government departments so that those people who are injured are able to receive their benefits as soon as possible.

To that end I must insist that the intention of the Bill remain, and we retain a period of two weeks. We have to emphasise that it is necessary for employers to take action as soon as possible. I ask the Committee to oppose the amendment.

Mr. O'NEIL: I thought the Minister would have shown some sweet reasonableness on this occasion because my amendment is not a very big thing to ask for. It has often been said in this place that before a proposition is put to the Parliament ample evidence as to its need should be shown. I am sure the Minister cannot claim there is ample evidence that the great majority of workers have to wait an unreasonable length of time in respect of being paid compensation.

Mr. Harman: I have had a number of cases put to me.

Mr. O'NEIL: But that is not enough to warrant this sort of proposition. In fact, if the Minister took the trouble to make an examination he would find the bulk of the reasons for delays is that the claim forms are not properly prepared. In other words a worker who does not have all his wits about him because of his injury is often responsible for the delay. I am not saying there are no employers who are to blame in this matter but, certainly, if a man is injured while working on a drilling rig in the middle of the Great Sandy Desert an application form has to be filled in and somehow or other delivered to the insurer. To insist that payment be made in less than two weeks is completely unreasonable.

Mr. Harman: In such a case a period of three weeks would not be long enough.

Mr. O'NEIL: At least the extra week would allow a fair chance. What about the case of a man who is accustomed to being paid monthly? All this guff about I.L.O. conventions leaves me cold.

Mr. J. T. Tonkin: Do all conventions leave you cold?

Mr. O'NEIL: No, I said all the yap about conventions.

Mr. H. D. Evans: Would there be many employees who are paid monthly?

Mr. O'NEIL: I am.

Mr. H. D. Evans: But you are not likely to make a claim for compensation.

Mr. O'NEIL: Not many employees are paid monthly, but surely the Minister ought to be reasonable about this matter. I wonder whether or not his attitude to my next proposition will be the same.

Mr. Harman: I will let you have that one.

Mr. O'NEIL: At least that is something. My next proposition simply includes a proviso that all the previous requirements of the Act must be met and this will place some onus on an employee to make a claim in a proper manner.

I cannot see how the Minister will breach any major I.L.O. convention decision by allowing more time to elapse because in the great majority of cases payments are made fortnightly. In fact, in the majority of cases the first compensation payment is made when a man's next weekly payment is due.

Mr. Hartrey: Very rarely, in my experience.

Mr. O'NEIL: There are many cases where the employers continue to pay on the basis that there is a legitimate claim for compensation before the insurer. All employers are not heartless beings.

Mr. Harman: That is fair enough; I do not doubt that.

Mr. O'NEIL: Surely if there is evidence that it is necessary for the provision to be as strict as set out, then that evidence ought to be produced. We do not object to

the principle of payments being made as quickly as possible. We accept the principle; we are trying to make it a practical proposition.

The Minister admitted that a particular I.L.O. convention decided on a period of five days, and he accepted that Western Australia has certain problems. For that reason he desires the period to be two weeks. I do not think he has assessed the problem sufficiently, and we simply ask for a period of three weeks.

Mr. HARTREY: The Deputy Leader of the Opposition makes a point of some merit when he says there are situations in which a period of two weeks may be too short. However, generally speaking, a period of two weeks would not be too short although there are instances where it might be so. For my part I have never been one to regard employers as "public enemy No. 1"; very often the employers are "public benefactor No. 1". I do not express any antipathy towards employers because in almost all cases with which I am connected any holdup in the payment of compensation is usually because of the extreme reluctance on the part of the insurer to pay, unless forced to do so. This causes and encourages a system under which considerable rigmarole is insisted on even before the employer can get a hearing from his own insurer. That is the main difficulty.

I have known of cases where claims have been knocked back on the ground that the person concerned did not quote the name of a witness. There is nothing in the Act to provide that the name of a witness must be given. In many instances accidents occur where there are no witnesses. Men working underground often work 500 or 600 feet away from each other. There is no requirement in the Act that there should be a witness to an accident.

In the case of hernia, a man working in the timber industry, and who has to lift logs as part of his work, would not necessarily have a witness available when he suffers his injury. However, insurance companies frequently say that such claims cannot be accepted because a witness is not available.

I cannot see any special merit in allowing, in every case, a period of only two weeks during which to make a claim, but in most cases it will be a thoroughly good provision. There may be exceptional circumstances but, certainly, it is quite wrong to say there is no justification for including this provision in this legislation.

I know of dozens of cases of men who have waited four or five months for payment. One unfortunate man from Kalgoorlie was disabled in November, 1971, but his claim was not finally paid until October of last year. Even then there was a long wearisome diatribe of correspondence with the insurance company involved before the payment was finally made.

Another unfortunate case concerned a German who came to this country not long after the war. He was brought here to work on the trans.-line because it was difficult to get people to do that type of work under the conditions which existed in those days. He had had a clerical education, but he took on a labouring job. In the course of his employment he was unloading some parcels and suffered an eye injury.

He reported to his employer and requested compensation but was told immediately that he must put in a claim and that he would not receive any money for six weeks at least. As a matter of fact the ruling period was approximately three months. He said that he had six children to support and could not go on workers' compensation. Consequently he went back to work. He worked for six weeks and during that time his eye became extremely inflamed. In the end, he lost his eye. This happened because he could not receive compensation in less than six weeks.

When the case was brought to my notice I made representations to the then Minister for Railways—who was a Labour Minister as the year was 1951 or perhaps a little later—on behalf of that man. The Minister, who is not a Minister now nor even a member of the Chamber, had the nerve to say that this was not true. I blew up and said, "Do not tell me anything like that." The secretary of the A.L.P. in Kalgoorlie at the time was an ex-secretary of the Railway Employees' Union. He said that of course the facts were right and, as union secretary, he had received many complaints to this effect. There are many examples where men have waited three months and surely something must be included in the legislation to ensure that this does not happen.

We should not make the period three weeks instead of two. The principle behind this is extremely important for the protection of the worker. The provision will not affect the employer. As the Deputy Leader of the Opposition said, the employer is usually sympathetic. He is not inhumane; as a rule I find the opposite. Employers pay for the insurance and like to see the men receive it. The insurers are not sympathetic. They are the ones we are aiming at, as we must.

Amendment put and negatived.

Mr. O'NEIL: The Minister indicated, by way of a nod of his head, that he may agree to the next amendment. The amendment will ensure that weekly payments will be made within the period, which is now two weeks, provided that all the requirements of section 12 of the

principal Act have been met. These are the requirements laid down in respect of making a claim. I move an amendment—

> Page 9, line 8—Insert after the word "incapacity" the passage "and all the criteria as contained in section 12 of this Act have been met."

Amendment put and passed.

Mr. O'NEIL: The next amendment I have on the notice paper was meant to delete the word "two" and insert the word "three" in subsection (2) of proposed new section 12A. This is the provision whereby an employer, who disputes liability to pay compensation, can, within the time allowed under the first section, make an application to the board in order to determine the liability.

There seems little point in moving the amendment standing in my name because I imagine it will receive the same treatment as the previous one. In fact, the period of two weeks referred to in this amendment is meant to be the same as that in the first amendment to the clause which the Government has refused. Consequently, I do not propose to proceed with the amendment.

My next amendment on the notice paper is concerned with the deletion of subsections (3), (4), (5), and (6) of proposed new section 12A.

This is another matter which received a fair amount of consideration during the second reading debate and, in fact, lays down the procedures which the board shall adopt and the actions it may take following the submission by an employer in connection with a dispute concerning his liability to pay workers' compensation.

It will not be necessary for me to deal with this in any further detail. I move an amendment—

> Delete new subsections (3), (4), (5) and (6), line 26, page 9, down to and including line 39, page 10.

Mr. HARMAN: I ask the Committee to oppose the amendment. Subsections (3), (4), (5), and (6) are all self-explanatory and they bear upon the situation of disputes, as mentioned in proposed section 12A (2). The machinery is necessary in order that these matters may be dealt with.

Amendment put and a division taken with the following result—

Ayes—20

Mr. Blaikie	Mr. Nalder
Sir Charles Court	Mr. O'Neil
Mr. Coyne	Mr. Ridge
Mr. Gayfer	Mr. Rushton
Mr. Hutchinson	Mr. Sibson
Mr. A. A. Lewis	Mr. Stephens
Mr. E. H. M. Lewis	Mr. Thompson
Mr. W. A. Manning	Mr. R. L. Young
Mr. McPharlin	Mr. W. G. Young
Mr. Mensaros	Mr. I. W. Manning

(Teller)

Noes—20

Mr. Bickerton	Mr. Hartrey
Mr. Brady	Mr. Jamieson
Mr. Brown	Mr. Lapham
Mr. B. T. Burke	Mr. McIver
Mr. T. J. Burke	Mr. Norton
Mr. Cook	Mr. Sewell
Mr. H. D. Evans	Mr. Taylor
Mr. T. D. Evans	Mr. A. R. Tonkin
Mr. Fletcher	Mr. J. T. Tonkin
Mr. Harman	Mr. Moller

(Teller)

Pairs

Ayes	Noes
Sir David Brand	Mr. Bertram
Dr. Dadour	Mr. Bryce
Mr. O'Connor	Mr. Davies
Mr. Runciman	Mr. Jones
Mr. Grayden	Mr. May

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

Amendment thus negatived.

Mr. O'NEIL: Just to test the feeling of the Committee, I move an amendment—

> Delete new section 12B., line 1, page 11, down to and including line 9, page 12.

I would like to indicate that although it was my intention, generally, to move for the deletion of these proposed new sections as the amendments appear on the notice paper, in order to save the time of the Committee and in view of the fact that we are not being given any real reasons or explanations for the Government's insistence on maintaining its position—

Mr. Harman: Cut it out!

Mr. O'NEIL: The Minister simply says, "I request the Committee to retain this clause because we want it."

Mr. Harman: For the reasons given.

Mr. O'NEIL: I suggest the Minister check in *Hansard* what he did say. No reasons are given.

Mr. Harman: The member for Boulder-Dundas has given you some excellent reasons.

Mr. O'NEIL: I want to hear the Minister's reasons. The Minister, not the member for Boulder-Dundas, is in charge of the Bill.

Mr. Hartrey: The reasons from this side of the Chamber are being expressed.

The CHAIRMAN: Order!

Mr. H. D. Evans: Do not be nasty.

Mr. O'NEIL: I think the Deputy Leader of the Opposition deserves the courtesy of a reply from the Minister.

Mr. H. D. Evans: And the member for Boulder-Dundas.

Mr. O'NEIL: Perhaps the member for Boulder-Dundas should be made the Minister for Labour. The Minister has a duty to the Chamber and he should give his own explanations.

Mr. H. D. Evans: He is doing it rather well, too.

Mr. O'NEIL: The Minister is lucky he has the numbers. He has won the votes but he has not won an argument.

Amendment put and negatived.

Mr. O'NEIL: I do not propose to proceed with the abortive exercise of moving amendments. I simply indicate the intention of the Opposition to vote against the whole of the clause.

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

Ayes—20

Mr. Bickerton	Mr. Hartrey
Mr. Brady	Mr. Jamieson
Mr. Brown	Mr. Lapham
Mr. B. T. Burke	Mr. McIver
Mr. T. J. Burke	Mr. Norton
Mr. Cook	Mr. Sewell
Mr. H. D. Evans	Mr. Taylor
Mr. T. D. Evans	Mr. A. R. Tonkin
Mr. Fletcher	Mr. J. T. Tonkin
Mr. Harman	Mr. Moller
	(Teller)

Noes—20

Mr. Blaikie	Mr. Nalder
Sir Charles Court	Mr. O'Neil
Mr. Coyne	Mr. Ridge
Mr. Gayfer	Mr. Rushton
Mr. Hutchinson	Mr. Sibson
Mr. A. A. Lewis	Mr. Stephens
Mr. E. H. M. Lewis	Mr. Thompson
Mr. W. A. Manning	Mr. R. L. Young
Mr. McPharlin	Mr. W. G. Young
Mr. Mensaros	Mr. I. W. Manning
	(Teller)

Pairs

Ayes	Noes
Mr. Bertram	Sir David Brand
Mr. Bryce	Dr. Dadour
Mr. Davies	Mr. O'Connor
Mr. Jones	Mr. Grayden
Mr. May	Mr. Runciman

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

Clause, as amended, thus passed.

Clause 10 put and passed.

Clause 11: Amendment to First Schedule—

Mr. O'NEIL: The Committee will be pleased to know we are slowly grinding our way to the conclusion of the consideration of the Workers' Compensation Act Amendment Bill. Clause 11 deals with the first of the three schedules which lay down the scales and rates of compensation. The first schedule determines the weekly rates and describes the dependants and the like.

I have only one query, which motivates me to move my first amendment to this clause. In the printed copy of the Workers' Compensation Act the words "three dollars and fifty cents" appear on many occasions. That is the amount of compensation which will be payable in respect of dependant children of various types. For example, it says—

> in respect of each of those dependants, if any, who is a child or step child under the age of sixteen years the sum of three dollars and fifty cents weekly . . .

It is proposed to increase that weekly payment from $3.50 to $9. I want to ask the Minister the reason for that. It seems to me to be a figure which has been plucked out of the air because, when one calculates what it should be in equity in comparison with what it was in the past, the amount is much closer to $5.80. In my calculation, it worked out at $5.76.

Why has the Minister suddenly decided in this particular case that, instead of endeavouring to restore the situation to what it should be because of the passage of time since the figure was set down, the amount should be increased from $3.50 to $9? By a simple calculation, he would have arrived at a figure of $5.80.

Mr. HARMAN: The figures put forward by the Deputy Leader of the Opposition to advance his argument during the second reading debate were based on an average of the compensation paid in the other States. We made some further calculations on the figures presented by him and we came up with some different amounts. Probably there is some reason for this and the Deputy Leader of the Opposition would be aware of it. We also discovered that in Queensland the amount is $8.08 per week, and also that the 1971-72 conspectus—a publication setting out the rates of benefit in each State—showed an average of $6.53. We will not know the current figure until the 1973 conspectus is published.

I would like to put forward another argument in support of our proposal. A limited number of people will be affected by this provision. During 1971-72 only 28 people were killed as a result of industrial accidents. Of these people some would not have had children or would have had children who were too old to come within the provisions of the Act. It is fair to say that only a few of the people killed would have left large families, and particularly young families. Therefore, the total cost of this increase would be relatively insignificant. We feel therefore that $9 is a reasonable amount, especially in view of the amount being paid in Queensland and the anticipated updating of the benefit in the other States. A widow who has the responsibility of caring for young children attending school would certainly need at least this amount to keep each child.

Mr. O'NEIL: The Minister has fallen back on the old argument that we wish to be cruel to the people who have already suffered a loss.

Mr. Harman: I never suggested that.

Mr. O'NEIL: The implication was that we are concerned solely with the cost of the benefit. The Minister said that the total amount would be insignificant. He admitted that the average of the other

States, including Queensland, is something like $6.53. In round terms the amount in our legislation should be $6.50.

Mr. Harman: That is in the 1971-72 conspectus.

Mr. O'NEIL: The conspectus is based on the Acts throughout Australia. If the Minister wishes to make a current calculation, he can obtain this information from the other States. The conspectus is simply a document produced by the Department of Labour for the purpose of making comparisons.

Mr. Harman: Have you seen the 1973 conspectus?

Mr. O'NEIL: I do not think it has been printed yet. The officers of the Minister's department can obtain the facts and figures for him.

Mr. Harman: Your figures were based on the previous conspectus.

Mr. O'NEIL: The Minister admits that from the information available to him his figure is $2.50 too high.

Mr. Harman: It is only 2c higher than the Queensland figure.

Mr. O'NEIL: Of course, we are arguing on a wrong premise. The Minister had to find a reason for the proposition in the Bill when I commented during the second reading debate as to what would have been a fair and reasonable figure. I do not accept his explanation as a valid one, and I therefore move an amendment—

> Page 15, line 9—Delete the words "nine dollars" with a view to substituting the words "five dollars and eighty cents".

Mr. HARTREY: It is reasonable that we should insist that $9 per week is not a generous amount to maintain a dependant child in these days of galloping inflation. The proposition put forward by the Deputy Leader of the Opposition is that we should strike an average of the rate paid in all the Australian States a few years ago. We should not be afraid to exceed the mere mediocrity which would be achieved thereby, irrespective of how much it costs to keep a healthy child today. Anyone who can do that on $9 a week is a genius. It is simply ridiculous to imagine that it can be done on $3.50 a week—the provision in our present Act. I could not keep a dog or cat on that. To ask a widow to keep a child on $5.80 a week is to commit an atrocity, and an atrocity for which I would have considerable contempt.

To suggest that a widow could keep three children aged 15, 13, and seven, on $17.40 per week is simply farcical. As I have pointed out in other speeches on this subject, such a move would not be advantageous to the community as a whole. A widow cannot feed her children on that amount of money and she will use some of the rent money for this purpose. She will not pay the landlord and let her children starve. When a breadwinner dies suddenly, the widow may be left with a washing machine and a refrigerator on time payment. The hire-purchase companies will not get their money because it will be spent on food. That is not good for the very people who vote for the Liberal Party. I advise Opposition members to think about this again. I am sure the officers of finance companies would tell Opposition members that they will suffer a loss every time a breadwinner dies at work unless adequate payment is made to the dependants. The landlords and also the moneylenders who hold the mortgages over the family homes will say the same thing.

On this side we seek to improve the conditions of the working class. The Opposition represents the money owners. We are on common ground in that the money owners are as anxious as are the workers to get money. One cannot get blood out of a stone, so we seek to supply some blood in the form of monetary assistance to maintain the widows and children of breadwinners killed at work. The whole community will suffer if the widow does not receive adequate compensation. Therefore, I support strongly the proposition that workers' compensation should be provided to the extent of $9 per week for the maintenance of a child too young to keep itself, and too old to be treated as a pet cat or dog.

Mr. RUSHTON: I wish to raise again an issue that I raised in the second reading debate. Having represented the case to the Minister's predecessor and received favourable consideration, I was hoping that this legislation would include provision for it

Mr. Harman: I have been waiting for you to come along and tell me about it.

Mr. RUSHTON: I will make available to the Minister all the correspondence I have on the issue. I would have liked to present an amendment, but it would be difficult to squeeze it in between those standing in the names of the Minister and the Deputy Leader of the Opposition. Perhaps the Minister may be able to arrange for an amendment to be made in another place. I do not wish to cause him any concern at the moment, but I will give him the correspondence so that he may understand the position.

Mr. Harman: I gave you an undertaking last time.

Mr. RUSHTON: In 1970 the Minister of the day attempted to present legislation to remove the anomaly existing in the case of a woman whose child was born after the death of her husband. It was proposed to make a certain payment in that case,

but apparently the draftsman at the time did not do his part. Since then cases have been covered. The Minister has said he is willing to consider the position, which the previous Government fully intended to cover.

Mr. Harman: That is acceptable.

Amendment put and negatived.

Mr. O'NEIL: This provision covers payments in respect of children or other dependants of a worker. Clearly it enables the board to determine what other children or people should be regarded as being dependent upon the worker. It could be an unemployable child, and in that case one would assume that the parents would already be receiving some kind of payment in respect of that child.

No board should be given the right to make a decision in its absolute discretion that a child in respect of which the family is receiving some kind of payment should also attract a further allowance in respect of a claim for workers' compensation.

Mr. Hartrey: It is a legal discretion. The board is a tribunal.

Mr. O'NEIL: I would like the Minister to explain precisely what is meant by the use of the term "in its absolute discretion".

Mr. Hartrey: I am trying to explain it. What is wrong with that? It is a legal discretion, based upon findings of fact.

Mr. O'NEIL: Having had that little explanation, which I do not accept, I move an amendment—

> Page 15, lines 19 and 20—Delete the words "in its absolute discretion".

Mr. HARMAN: I am surprised at the attitude of the Deputy Leader of the Opposition. I am not a legal man. If we on this side of the Chamber have people who can explain legal matters, what more can we do than allow such members to speak? Obviously the member for Boulder-Dundas has an explanation in precise terms which I feel the Deputy Leader of the Opposition will understand. Surely in a complex matter like this it is reasonable that we should provide the Opposition with the best possible advice.

Mr. HARTREY: Any discretion conferred upon a judicial tribunal is always by implication conferred upon it in a judicial capacity, and it must be a judicial discretion. It does not mean "whim" or "caprice". Of course, "discretion" does not mean that in common language. But when we connect it with a judicial tribunal it definitely means a discretion which must be exercised upon sound legal principles, and upon findings of fact which support the exercise of the discretion. One of the most common forms of discretion is the discretion given to a judge of first instance to determine the custody of children in a matrimonial dispute. Very rarely would a court of appeal reverse a discretionary decision by a judge of first instance in those circumstances; but it will do so if it is satisfied that the judge did not give proper weight to the legal principles governing the case, according to the facts that were found.

If we take out the words in question, which have been put there as a matter of courtesy to the board, we will not make any real difference to the effect of the provision. We would achieve the same result with the words "by reason of circumstances". The only difference is that the board may decide an issue by caprice if the word "discretion" is not used; and that decision could be upset. There is no appeal on a question of fact, although I am of the opinion there should be. However, that is by the way.

If the board decides in its absolute discretion that a child still needs special education at the age of 18 years because he is a slow learner or, alternatively, that a child is unemployable and should therefore be maintained beyond the age of 16 or 18 years, then it must make that decision in accordance with a legal discretion. If the court can make that decision without any limitations we will have a much worse situation than that which the honourable member is attempting to avoid. I strongly advise him to withdraw his amendment, although I would not mind if it were carried because it will not make any difference from our angle.

Mr. O'NEIL: What sort of position does that leave the Committee in? On the one hand the honourable member suggests that I withdraw the amendment, and on the other hand he says he would not mind if it were carried. The Minister has advised us that we should have the benefit of the best legal advice available to the Chamber—and that is the advice. I recall something the Premier has often said: "Would that there be more one-armed lawyers so that they can't say on the one hand it is this and on the other hand it is that."

If I understood the explanation it appears to me that the member for Boulder-Dundas would not mind if my amendment were carried and if therefore I propose to press it he will agree with me. Yet on the other hand he says I would be wise to withdraw my amendment. If that is the sort of advice the Committee is to get I can readily follow the interjection made by the member for Mirrabooka; namely, that perhaps this is one of those Bills which should be referred to some expert technical committee for thorough examination. It is a pity the Minister did not do what the Premier promised would be done; that is, that the Bill would be given a thorough and close examination, similar to the legislation introduced in the latter stages of

our Government. Here we are arguing *ad nauseum* what is, in fact, an interim measure.

Mr. Hartrey: I did not tell you that.

Mr. O'NEIL: The Minister has told us that. He is only waiting for that national octopus—the national compensation scheme—to overtake us.

Mr. Harman: You say it will not come about.

Mr. O'NEIL: The Minister says it will. The member for Boulder-Dundas has given me two pieces of advice and the one I intend to follow is to press for my amendment.

Amendment put and negatived.

Mr. O'NEIL: Once again, having pressed on with at least three amendments to this clause and in view of the success I have had with them, I now wish to indicate that instead of moving the amendments I have on the notice paper independently, we propose to vote against the whole clause.

Clause put and a division taken with the following result—

Ayes—20

Mr. Bickerton	Mr. Hartrey
Mr. Brady	Mr. Jamieson
Mr. Brown	Mr. Jamieson
Mr. B. T. Burke	Mr. Lapham
Mr. T. J. Burke	Mr. Norton
Mr. Cook	Mr. Sewell
Mr. H. D. Evans	Mr. Taylor
Mr. T. D. Evans	Mr. A. R. Tonkin
Mr. Fletcher	Mr. J. T. Tonkin
Mr. Harman	Mr. Moller
	(Teller)

Noes—20

Mr. Blaikie	Mr. Nalder
Sir Charles Court	Mr. O'Neil
Mr. Coyne	Mr. Ridge
Mr. Gayfer	Mr. Runciman
Mr. Hutchinson	Mr. Rushton
Mr. A. A. Lewis	Mr. Sibson
Mr. E. H. M. Lewis	Mr. Stephens
Mr. W. A. Manning	Mr. Thompson
Mr. McPharlin	Mr. R. L. Young
Mr. Mensaros	Mr. I. W. Manning
	(Teller)

Pairs

Ayes	Noes
Mr. Bertram	Sir David Brand
Mr. Bryce	Dr. Dadour
Mr. Davies	Mr. O'Connor
Mr. Jones	Mr. W. G. Young
Mr. May	Mr. Grayden

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

Clause thus passed.

Clause 12: Substituted Second Schedule—

Mr. HARMAN: I move an amendment—

Page 19, item 27—Delete the word "either" and substitute the words "any other".

Members will note that on page 19 of the Bill item 26 reads, "Total loss of distal phalanx of forefinger", and item 27 reads, "Total loss of distal phalanx of either finger". As indicated by the amendment I wish to delete the word "either" and substitute the words "any other" in this item.

Mr. O'NEIL: This amendment purely seeks to correct an error in the wording because the implication is that having catered for the loss of the forefinger only two other fingers remain. Therefore the Minister's amendment will bring forth no general complaint from me. We have a submission to make on the whole clause so I suppose it may be better for me to wait until this amendment is carried and then speak on the clause in general.

Amendment put and passed.

Mr. O'NEIL: I will now speak in general on the clause, but I will not refer to any detail prior to item 27. Clause 12 of the Bill seeks to replace the second schedule to the principal Act, that schedule providing for certain lump sum payments in respect of loss of parts of the body and capacity of the body following an injury.

The schedule has been restructured in a much more readable form and now the compensation payable in a lump sum for various losses is to be a percentage of the new prescribed amount. We have already indicated that we do not agree with the quantum in the prescribed amount proposed by the Government. We would have preferred one which is more reasonable, but, as I said before, we do not disagree with the principle of declaring the lump sum compensation payable for the loss of certain parts of the body as a percentage of a movable amount. Therefore we are in agreement with the principle because it should obviate bringing this Act back to Parliament at regular intervals for amendment in order to update the compensation payments. Other than opposing the prescribed amount in the clause, we see no further major objection to it.

Members will note that on page 20 I have some amendments to move in regard to this clause. On that page items 37, 38, and 39 come under the heading of "Miscellaneous". Item 37 refers to the loss of genitals, and the compensation payable for that dire injury is 80 per cent. of the prescribed amount. I do not know how the Minister has assessed this percentage. I have an amendment on the notice paper which will seek to reduce the figure to 50 per cent. of the prescribed amount, and probably my proposition is just as good as that of the Minister.

Mr. Bickerton: You may be built differently.

Mr. O'NEIL: Item 38 refers to an entirely different problem. It relates to the permanent loss of the capacity to engage in sexual intercourse, and the percentage suggested is 80 per cent. of the prescribed amount. I believe the payment ought to

be 150 per cent. and not 80 per cent. of the prescribed amount. The amount for severe bodily or facial scarring or disfigurement is also 80 per cent. These are new items to be added to the workers' compensation legislation.

I would like the Minister to advise me how he has arrived at the percentages in items 37, 38, and 39. I move an amendment—

Page 20, item 37—Delete the figure "80".

Mr. HARMAN: We seek to include these three items in the legislation. I cannot say how the percentages prescribed in the Bill were arrived at, but in general they were based on the payments prescribed in the Commonwealth legislation, with particular reference to the items included in the schedules to the South Australian Act. That is the only information I can supply.

Amendment put and negatived.

Mr. O'NEIL: To test the feelings of the Committee I move an amendment—

Page 20—Delete items 38 and 39.

Mr. HARMAN: These items were included in the Bill after careful thought and a great deal of discussion. We are endeavouring to give the people of Western Australia the type of legislation which has been adopted by the Commonwealth Parliament; and these two items have been included in the Commonwealth legislation. The injuries mentioned in items 38 and 39 are compensable if they are caused by accidents at work.

Amendment put and negatived.

Clause, as amended, put and passed.

Clause 13: Amendment to Third Schedule—

Mr. O'NEIL: This schedule relates to certain diseases, and to industrial processes which cause those diseases. The first schedule sets out the lump sum payment as compensation in respect of death; the second schedule lists the lump sum payments in respect of loss of bodily capacity or of parts of the body; and the third schedule covers compensation for work-caused diseases. The Bill seeks to include a couple of additional work-caused diseases.

The Minister said in the second reading debate that these additions relate to exotic diseases which do not seem to have caused a great problem, but they have been included just in case they might create a problem. However, that is no way to tackle matters such as this. The comments of the Minister on the previous amendment indicate that we are distorting and going away from the true principle of workers' compensation; that we are turning this into a piece of social legislation in several directions. Even the member for Boulder-Dundas has agreed that the Workers' Compensation Act is no place to write in provisions covering the loss of clothing or the loss of tools; however, they have been included.

Rather than move the two amendments appearing in my name on the notice paper I shall merely vote against the clause.

Clause put and passed.

New clause 11—

Mr. HARMAN: I move—

Page 14—Insert after clause 10 the following new clause to stand as clause 11—

Amendment to s. 29 (Jurisdiction of the Board.)

11. Subsection (7) of section 29 of the principal Act is amended by deleting paragraph (aa).

Paragraph (aa) reads as follows—

> where the Board considers that an injury to a worker that is compensable under this Act has resulted in his permanent and total incapacity for work, making, except where an order for redemption of weekly payments by payment of a lump sum has been or is made under this Act in respect of the injury, such order as to the total liability of the employer for weekly payments including payments for dependants as the Board thinks proper in the circumstances;

The Committee has agreed to a provision which removes the monetary limit; and for that reason the existing provision in the Act becomes meaningless. It is necessary therefore to delete paragraph (aa).

Mr. O'NEIL: This is the final indication that there is to be no limit whatsoever placed on the payment of workers' compensation under the policies of this Government. Irrespective of whether a person is regarded as being of statutory retiring age and therefore as not earning any money at all, if that person is fit and able to work he will receive compensation by virtue of contributions made by his employer to an insurance company.

I raised this matter when discussing the area concerned with diseases affecting miners, such as pneumoconiosis and the like. At one time there was an indication that I was talking through the back of my head when I said that compensation—once a person qualifies for it—will now be payable for that person's lifetime, and not his working life.

So once again, although we agree that if a man is disabled he certainly should be compensated for that disablement, we have a situation under which, by virtue of the contributions he makes to an insurance company, the employer carries the worker beyond what would normally be his retirement age and pays him full wages, including overtime and other emoluments, for the rest of his life. If that is compensation, I am a Dutchman.

I can only say that this Government does not know what it is doing in respect of compensation and I trust that wiser counsel will prevail when this matter is considered in another place.

New clause put and passed.

Title put and passed.

Bill reported with amendments.

PREVENTION OF POLLUTION OF WATERS BY OIL ACT AMENDMENT BILL

In Committee

Resumed from the 12th September. The Chairman of Committees (Mr. Bateman) in the Chair; Mr. Jamieson (Minister for Works) in charge of the Bill.

Progress was reported after clause 2 had been agreed to.

Clause 3: Section 3 amended—

Mr. HUTCHINSON: I move an amendment—

Page 2—Delete paragraph (a).

Paragraph (a) contains the definition of "agent", and during the second reading debate I tried to point out the iniquities of including agents with owners and masters for responsibility and liability for the payment of a $50,000 fine. I acknowledge that the owner and master should be liable, but I deny emphatically that any justice at all exists in the inclusion of the agent who has no responsibility in the matter and no control over pollution.

When I was speaking in this vein, the Minister for Works interjected and said—

> I wonder whether the member for Cottesloe has had a look at section 23 of the Criminal Code, because it is applicable.

I replied that I might follow the matter up later. However, further on he said, again by way of interjection—

> That is why you should look at section 23 of the Criminal Code.

At the time he was mildly taken to task by the Deputy Leader of the Opposition who informed the Chamber, again by way of interjection, that he could see no reason for the Attorney-General having drawn attention to section 23 of the Criminal Code.

When I had concluded my speech, the member for Floreat spoke and he explained to the Attorney-General, very sensibly I thought, that he could see no reason at all for the Attorney-General having drawn attention to section 23 of the Criminal Code, and he concluded his remarks by saying—

> Let me say that I have more respect for the Crown Law Department and I presume that when it drafted the clause, it made sure the clause could not be invalidated by section 23 of the Criminal Code.

Mr. T. D. Evans: The member for Floreat is unaware of the fact that section 36 stipulates that all the provisions in part V are applicable to the Statute law of Western Australia generally unless there is a specific exemption in a particular Act.

Mr. HUTCHINSON: There is.

Mr. T. D. Evans: I am unaware of it.

Mr. HUTCHINSON: The Bill makes the agent liable and the Minister told me that section 23 of the Criminal Code was applicable, but the Minister was wrong according to the advice I have received from lawyers, who say—

> The portion of Section 23 to which the Attorney General was referring reads as follows:—
>
> > Subject to the express provisions of this Code relating to negligent acts and omissions, a person is not criminally responsible for an act or omission which occurs independently of the exercise of his will, or for an event which occurs by accident.

Mr. T. D. Evans: Section 36 of the Criminal Code reads—

> The provisions of this chapter apply to all persons charged with any offence against the Statute Law of Western Australia.

Mr. HUTCHINSON: But the legislation under discussion will stand on its own feet and an eminent lawyer has told me—

> There is no doubt at all that liability under Section 5 of the Prevention of Pollution of Waters by Oil Act is strict. We cite as authority for this a passage from the judgment of Wolff C. J. in the case Nicholson v. F.P.A. (1969) West Australian Reports page 27 at page 28:—
>
> > The section (s.5) is absolute in its terms. No question of fault in the tort sense arises in connection with the owner or master. If the prohibited act takes place each is ipso facto responsible.

Mr. T. D. Evans: The author of that opinion is entitled to it.

Mr. HUTCHINSON: The Government desires to add a third person; an agent. I know the Attorney-General was not talking about the matter from the same angle as I was. I feel it is unfair, in the extreme, to include a man and make him liable for punishment for matters over which he has no control. I cannot imagine the Attorney-General agreeing with that sort of law. I cannot imagine him, at the university, holding this principle up as something to be followed by law students; he just could not do it.

This is a bad law in the extreme but the Minister for Works still persists with its inclusion. The definition of "agent", which I desire to delete, is widely drawn. It includes all sorts of people. It is possible that a ship's chandler, if he acts as agent and there is no other agent, will be prosecuted and will be liable for a fine of $50,000; and even the Grain Pool of W.A. and the Australian Wheat Board will be liable. Both organisations are authorities which can be liable for the proposed penalty because they act as agents for quite a number of wheat ships. I do not know just how many.

Mr. Gayfer: Hundreds of them.

Mr. HUTCHINSON: Those authorities will have no control whatsoever and will be liable if this provision remains in this Bill. It is patently unfair. The only other legislation throughout the world, as far as I have been able to discover, which includes agents is the South Australian legislation and the New Zealand legislation. In the case of the South Australian legislation "agent" was included in the Act some years ago. The penalty, at that time was probably £200; certainly not more than £500. However, the penalty of $50,000 was included in the South Australian Act following a meeting which the Minister attended some two years ago.

Mr. Jamieson: Less than two years.

Mr. HUTCHINSON: At that time the various Ministers resolved to introduce reasonably uniform legislation. The iniquity of the provision in the South Australian legislation was not brought home at the time and during my second reading speech I said I felt that someone was most remiss in not dealing with the situation when "agent" was included. It is a bad law.

I hope the Minister will agree to my proposal at this late stage. The Minister was completely unfair and unjust when he said that the Australian Chamber of Shipping did not put up very much of a show in opposition to the inclusion of "agent" in this legislation. He said that representatives from the chamber saw him once and seemed to be satisfied with what he said, and did not go back to him. Well, that is not true.

Mr. Jamieson: They still came back to me, but with no alternative.

Mr. HUTCHINSON: What the Minister said was untrue.

Mr. Jamieson: No it was not. On this aspect they came back but had no alternative.

Mr. HUTCHINSON: The Minister said that the representatives came back to him once, and he went on to say that they were not greatly concerned. The chamber wrote to the Minister on two occasions but the Minister said it was only on one occasion. On the 14th May the chamber wrote to the Minister, through its solicitors, and explained its great concern about the inclusion of "agent".

Following a visit I paid to the Perth Chamber of Commerce that chamber took up the matter and on the 16th May wrote to the Minister explaining the situation, virtually, on behalf of the Australian Chamber of Shipping. The Australian Chamber of Shipping sent a second letter on the 26th July. So the Minister has received three letters—two of them from the one source—but he said that only one representation had been made to him. I do not know what is happening in his office. I have said that his statement was untrue, and I have proved it to be untrue.

The representatives of the Australian Chamber of Shipping are greatly concerned as, indeed, all members from the Government side of the Chamber should be concerned.

Similar legislation throughout the rest of the world does not include "agent", and its inclusion does not follow the articles virtually laid down by the Convention for the Prevention of Pollution of Waters by Oil held in 1954, nor does it follow the articles of subsequent conventions when these matters were laid down for world wide uniformity. Legislation covering the pollution of waters by oil stems from the 1954 convention but we can find only two examples of "agent" being included.

It is bad that the Minister should remain adamant, and I think it is also bad that the Premier, as leader of the Government, does not take a stand in this matter.

Mr. J. T. Tonkin: I am trying to reconcile your argument with the positions of "agent" and "principal".

Mr. HUTCHINSON: If the Premier were on this side of the Chamber and I were trying to include "agent" in this manner there is no doubt in my mind that he would have taken up the cudgel on behalf of the agents on very much the same grounds as I am trying to cover.

The CHAIRMAN: The honourable member has two minutes.

Mr. HUTCHINSON: Perhaps the Premier would have taken up the argument very much better than I have done.

Mr. J. T. Tonkin: Your argument is that one man is to be punished for something done by another man.

Mr. HUTCHINSON: Yes.

Mr. J. T. Tonkin: That applies to "agent" and "principal" where, if an agent is acting bona fide within the limits of his powers, his principal is responsible even

though what the agent has done might be quite foreign to what the principal, himself, might have done.

Mr. HUTCHINSON: Where is this example?

Mr. J. T. Tonkin: That is the law of agent and principal.

Mr. HUTCHINSON: Can the Premier tell me of one instance where an agent has been summoned and charged for matters over which he has no control?

Mr. J. T. Tonkin: I am saying the principal would be held responsible for something his agent had done providing the agent acted within the limits of his responsibility. There is a case where the principal has had nothing whatever to do with what has been done.

Mr. HUTCHINSON: The Premier is twisting around the argument.

Sir Charles Court: The Premier has it base over apex.

The CHAIRMAN: The honourable member should address the Chair because his time has nearly expired.

Mr. HUTCHINSON: I am surprised the Premier has taken this line. It is not usual for him to come up with an argument of that kind. If I have the opportunity to speak again I want to tell the Committee about the uniformity which should be applied as a result of the conventions that have taken place—in the main, stemming from 1954.

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

Mr. JAMIESON: I have listened intently to the member for Cottesloe but our views on this aspect of the measure are quite irreconcilable. It comes down to this: either we are dinkum about oil pollution or we are not and we either take some severe action or we do not.

Somebody must accept responsibility. Conveniently, the honourable member did not quote the information he was given on the number of prosecutions which have been successful in recent times. There were 39 spillages in the inner and outer harbour of Fremantle during 1972 and 1973 but only four successful prosecutions. Obviously we will get nowhere if we continue as we have in the past. The reason for the lack of successful prosecutions was that there was nobody against whom to take action.

Mr. Hutchinson: So you pluck somebody out of the air?

Mr. JAMIESON: No, that is not the case. It is known who is responsible but there is no way at all of getting to them. The member for Cottesloe spoke as if the agent would accept the prime responsibility. The agent has joint and several responsibility with the other parties mentioned earlier. The fact is, of course, if it were possible to take action against the owner or master that action would be taken. If such action cannot be taken, somebody else has to pay. The member for Cottesloe is saying that the people of Western Australia should pay for somebody else's misdemeanour. This is what he is telling the people of Western Australia.

Mr. Hutchinson: What?

Mr. JAMIESON: The honourable member is telling the taxpayers of this State that they should pay for somebody else's misdemeanour on the high seas. This is not fair or reasonable. The costs involved in cleaning up oil spillages—and in coping with the overall associated problems—must be lessened.

The situation as we see it is that somebody must be prepared and willing to accept the responsibility and we suggest that the only way to make the proceedings actionable is by way of the agent.

The shipping people were in to see me a day or so after we last discussed the measure. We had quite an animated conversation as members may imagine. They have their ideas on the subject but I was rather hostile because, despite the action they had taken and the time available to them, they had not seen fit to approach their chamber in South Australia. I said, "You quote the horrible things that will happen as a result of this legislation. Would it not be fair to show me the problems that exist in South Australia as a result of this legislation?"

After that, they took up the matter with the committee in South Australia and finally they wrote to me although they said they still did not like the provision. They said that they had found that the firms in South Australia which represented the tramp operators had not been able to make suitable practical arrangements although the others seemed to be able to do this all right. Finally they said—

> Whilst we can offer no alternative, we again urge that you delete any reference to Agent in your amendment as we are most concerned that while you feel that the State may not be able to recover fines from some Owners, an Agent may be in the same position. . . .

Mr. Hutchinson: You said you had only been contacted once.

Mr. JAMIESON: This was subsequently.

Mr. Hutchinson: I said you had spoken an untruth and only a few minutes ago you said you had not. Do you admit it now?

Mr. JAMIESON: The member for Cottesloe is talking complete double Dutch.

Mr. Hutchinson: The Minister does not want to understand.

Mr. JAMIESON: What the member for Cottesloe is saying does not fit in with the debate. The Chamber of Commerce approached me. I clearly recall representatives from the Australian chamber coming to see me previously. They were most concerned about this matter but they had not even given it proper consideration in their submissions. They had an opportunity all along to approach an affiliated body which had had experience of this but they had not done so. Finally they did it but only after they had come to see me on another matter. This letter was dated the 24th September, which was subsequent to the last debate on the measure in the Chamber.

As I have said, if we are dinkum about taking action we must make somebody responsible. Agents are made responsible under Commonwealth law when seamen skip a ship and a bond must be paid because they do not reappear. Somebody must accept responsibility for all these kinds of things. Of course, nobody likes to accept additional responsibility without a fight. Neither the taxpayers of Western Australia nor local authorities should be made responsible. A tremendous amount of energy and activity is associated with cleaning up spillages. Why should the taxpayers, local authorities which have beachfronts in their areas, or the harbour authority be responsible? We say that the agent must accept this responsibility.

The agent will cover himself in this matter. I can see that the member for Avon is eager to tell me how the wheat bodies will face all the problems in the world. Being astute businessmen, I am quite sure they will overcome this in the same way as their counterparts have done in South Australia.

Mr. Hutchinson: They have separated the two things in South Australia. It was a mistake in the legislation.

Mr. JAMIESON: It was not. How can the honourable member say that the Playford Government would make a mistake like that in legislation which has been proved by the test of time?

Mr. Hutchinson: If we were in Government we would change it.

Mr. JAMIESON: Furthermore, the Labor Government in South Australia has continued with the legislation since that time. Surely there would have been screams to have it amended. It is quite apparent that there has been no great outcry. Our views are irreconcilable on this feature.

Mr. Hutchinson: There has been an outcry in South Australia. You are saying that.

Mr. JAMIESON: I wish the member for Cottesloe would orientate himself. Is he still playing tennis and racing around the court?

Mr. R. L. Young: Stick to the Bill.

Mr. JAMIESON: If the honourable member does not like what I am saying he can go outside. The situation is quite clear as I indicated when I first started to speak. On this particular aspect our views are irreconcilable. I will not argue any further on the matter. As I see it, the agent must accept some responsibility.

We have to know to whom to go in order to ensure a fair and equitable situation for the people of Western Australia—not an unfair and inequitable situation, which the member for Cottesloe wants.

Mr. GAYFER: I am rather concerned about the inclusion of the word "agent" because I can see the ramifications following upon the chartering of vessels, particularly for the grain trade from Western Australia. I do not know whether the Committee is aware that all the wheat ships are chartered by the Australian Wheat Board—which is based in Melbourne—as the agents for those vessels. The Australian Wheat Board usually arranges for the vessels to go to certain ports. If the wheat is destined for an iron curtain country, or any other country, the vessels are chosen by those countries to pick up the grain from Western Australian ports.

Although the agent is acting for the vessel, he is not completely *au fait* with where the vessel comes from or who is the master. The Minister mentioned that there were 39 cases last year and only four of them were successful. If spillage takes place and the agents—being the Australian Wheat Board—are sued for $50,000, the result will be that the Australian wheat producers as a whole will be paying for the liability of the master or owner of the vessel.

This month we will have something like nine vessels coming into Western Australian ports. They are mainly Bakke ships but they will be coming from all over the place. This clause means that the agents for the vessels could be liable should any spillage occur in connection with them.

The matter comes closer to home when we consider the trustees of the Grain Pool who were originally set up as agents. They cannot share the cost of pollution by wheat vessels with all the grain producers of Australia. They must directly shoulder the imposition, being the agents for the owner or master who cannot be detected or who is out on the high seas, as many of them were when the charges were laid.

The Grain Pool of Western Australia directly handles all exports from this State of oats, barley, lupins, linseed, rapeseed, and all other grains except wheat. Therefore, if the owner or master cannot

be charged with the spillage the onus will not fall upon the taxpayers of Western Australia but upon the grain producers of Western Australia. The Minister waved his arms around and said the taxpayers should not pay for it, but I am surprised that he should think he might as well have the farmers pay for it instead.

To my mind, the inclusion of the agent has wider ramifications than many of us thought. We support the member for Cottesloe in moving for the deletion of this term.

Mr. FLETCHER: I would have similar reservations to those of the member for Cottesloe and I would have similar sympathy for agents if I did not know there were ways of obviating the liability that could fall on agents. In the event of a fine of up to $50,000 for causing a spillage, there are two avenues of protection. Neither the member for Cottesloe nor the member for Avon is naive enough to believe the agent would accept responsibility for that. The shipping company would be held liable for it and would reimburse the agent for the amount of the fine.

There is another avenue of protection for an agent. There are all kinds of insurance, and the members for Cottesloe and Avon would know the logical thing for an agent to do is to take out insurance against such a contingency.

Therefore, as the member for an area which is so vitally concerned about oil spillage and the dreadful damage it can do, I have pleasure in supporting the Minister in his desire to ensure that the coast of Western Australia is not affected. I do not think $50,000 is an exorbitant amount, bearing in mind the damage that can be done and has been done in other parts of the world. I oppose the amendment of the member for Cottesloe.

Mr. HUTCHINSON: I am disappointed with the Minister but I am more than disappointed with the member for Fremantle. In 1967, when I introduced a Bill to amend the 1960 Act, the member for Fremantle spoke during the debate and said he found it strange that the master of a vessel should be liable for an act that might be carried out by an engineer or a member of the crew. Those are the words he used, and I refer him to page 1044 of volume 2 of the 1967 debates.

If the honourable member found that strange, it is much stranger that an agent, the Australian Wheat Board, or a ship's chandler should be liable to a fine of up to $50,000 for a matter over which they have no control and for which they have very little chance of obtaining insurance cover.

I can understand Governments in various parts of the world being concerned about oil pollution, but one does not blame and punish just anybody. The Minister and the Government have approached this matter in an astonishing way. It is a primitive and anachronistic approach. The Minister says, "We have to get tough with somebody; we must make somebody pay."

This type of thing reminds me of the cowboy pictures of the wild west. I ask members to imagine a situation in which a posse is collected to chase after a horse stealer or a person who has committed a crime. The posse careers around the countryside and eventually some fellow who is riding at a gallop across its path is chased and apprehended. Apparently this happened quite often in the nineteenth century; when despite the man's protestations of innocence and the fact that he was nowhere near the place where the crime was committed, the philosophy was that someone must pay. More often than not the poor fellow could not prove where he had been at the time of the crime and he was invariably lynched. The posse would then return home satisfied. That is the simple primitive anachronistic approach of this Government.

There is no necessity for the inclusion of this provision. The fact that the Fremantle Port Authority has not been successful in the charges it has laid is no reason to make someone pay. The fact that the Minister said that astonishes me. I have here the figures for all the capital cities of Australia in relation to oil spillages and successful prosecutions. In New South Wales 20 oil spillages were detected with 15 successful prosecutions, and yet agents have never been included as being liable for the offence. New South Wales has introduced new legislation following the same lines as that presently before us, and agents are not included. Legislation in Victoria, Queensland, and Tasmania makes no reference to the liability of the agent. South Australia enacted legislation in two parts—the first in 1964 and the second in 1971 or 1972.

It is a sorry day for this Parliament when the Minister expresses a policy based on the posse philosophy that someone must pay for the crime. It does not make sense to me.

Let us look at what is happening throughout the world. I have already told the Chamber about the Convention for the Prevention of the Pollution of Waters by Oil which took place in 1954. Forty nations were represented at this convention and as a result many articles were drawn up which were to become the blueprint of modern world legislation in regard to oil pollution. That convention made no reference to agents.

Under article 3, subparagraph (4) of the International Convention on Civil Liability for Oil Pollution Damage of 1969, the servants or agents of the owner are expressly excluded from liability for pollution damage. That is a simple statement

and if it does not impress the Premier and members opposite, I do not know what will. I do not know how the member for Boulder-Dundas can sit there quietly as I know his principles in regard to laws of this kind. The Minister ought to change his mind, or someone should nudge him and say, "Change your mind." This provision is wrong in every sense of the word.

Mr. R. L. YOUNG: There is probably not much that I can add to this debate which has not already been said by the member for Cottesloe. I would like it recorded that I believe he has put forward a very sound argument. Members will recall the debate last year on the Jetties Act Amendment Bill. At the end of that debate, only one person in the Chamber was not convinced that the proposals in the Bill were incorrect; and that one person was the Minister. He was not supported by members on the Government side—some members made it quite clear, by leaving the Chamber, that the attitudes expressed in the legislation were absolutely incorrect. The present principle is no different—the same situation applies.

The Premier interjected and referred to the situation in regard to principals and agents, but he was attacking the problem from the wrong end. It is well established in law that in most cases the principal will be responsible for the actions of his agent. This must apply in commerce because the principal is the one to make the profit in the final analysis. He uses an agent to do the work for him and if the agent does something to cause harm or damage to another, the principal, who will receive the ultimate profit, must bear the brunt of the agent's action. However, in the situation we are discussing, the agent has no control whatsoever over actions which will constitute an offence. Surely to find someone guilty of an offence which carries a penalty of $50,000, we must at least prove he had something to do with it.

The member for Cottesloe accurately referred to the posse philosophy. It is not good enough simply to say, "We have to catch someone and make him responsible." Our laws should not be based on the principle that if we cannot catch the person responsible we must at least get a conviction. For hundreds of years it has been inherent in our legislation it is better that someone who might be guilty may not pay the penalty rather than have someone who is innocent pay the penalty. With all our legislation it is possible that we might not always catch the guilty man, but it is better to have that happen than to have someone who is innocent found guilty of an offence.

If a ship ejects oil, how can the agent possibly have committed an offence? The owner, as the ultimate profit maker, or the master in charge of the ship, may be found guilty, but the agent cannot be. The Minister is saying that justice does not matter, and the member for Cottesloe has pointed out just how wrong his attitude is.

Mr. Gayfer: It protects the foreign skipper.

Mr. R. L. YOUNG: Which Government members care about local people? The member for Cottesloe has pointed out exactly what is wrong with the legislation. No-one on the other side of the Chamber is prepared to get up to tell the Minister that this provision should never have been introduced here but that is their problem—not mine. This is lousy legislation and we have no reason to give it credence. Having said that, I can best sum up by saying that it is no better than the Jetties Act Amendment Bill. I support the amendment moved by the member for Cottesloe.

Mr. JAMIESON: The member for Wembley does me proud when he implies that the legislation I introduce has not the party imprimatur upon it. Whether or not he thinks so, the legislation certainly has such imprimatur upon it. It is explained in the party room and our members have an opportunity to determine whether in their opinion it is right or wrong. That is the procedure we adopt. Whatever procedure members opposite adopt is their own business.

Mr. Hutchinson: Was the member for Boulder-Dundas there when you discussed it?

Mr. JAMIESON: He has that opportunity, just as other members of our party have.

Mr. Hartrey: I rarely miss out.

Mr. JAMIESON: I have not heard anything to suggest that there should not be a responsible party. I do not think the persons for whom members opposite are acting would under this Bill be responsible for oil pollution in one case out of a thousand because they would not accept agencies for shipping lines which are inclined to be careless and to subject the country to pollution. If pollution is likely to occur from old tramp steamers coming here to pick up wheat or whatever, then we do not want those ships. The ships of the well known, well organised lines will be well covered; their agents will ensure that. I am not in any way convinced that this is a wrong move.

Progress

Progress reported and leave given to sit again, on motion by Mr. Moiler.

House adjourned at 11.03 p.m.