The Hon. N. E. BAXTER: Does the Minister mean that the hospitals got that figure?

The Hon. G. C. MacKinnon: Sure.

The Hon. N. E. BAXTER: Many organisations look forward to the assistance they get from the Lotteries Commission and I can see that somebody will have to go short. If not, the only alternative will be for the commission to reduce the amount of prize money that is distributed.

The Hon. F. R. H. LAVERY: On page 151 of the Auditor-General's report, hospitals and medical health services for the year ended the 30th June, 1965, received $711,688, and for the period ended the 30th June, 1966, the amount was $651,916. Homes, orphanages, and mission centres for the period ended the 30th June, 1965, received $272,288, while for the year ended the 30th June, 1966, they received $363,431. In addition the infant health centres and other charitable bodies received payments.

The Hon. A. F. GRIFFITH: I hope Mr. Baxter stays within earshot while I speak. I did not wish to mislead the Committee in this respect, but I would think the suggestion that the forward commitments in this report which total $512,000 are a commitment in total for 1967 is very illogical. I am not sure of this, but I do not think that is the case. The forward commitments mentioned would be for a period of years. Whatever the forward commitments are in relation to hospitals, I would take it the operating expenses would be the responsibility of the Hospital Fund Account, but the capital moneys required for hospitals will be met out of loan funds. I mentioned that the income from the sales of tickets to the 30th June, 1966, amounted to a little more than $4,000,000, 10 per cent. of which would be $400,000. If Mr. Heitman mentioned any other figure it was an unintentional mistake.

Clause put and passed.

Title put and passed.

*Report*

Bill reported, without amendment, and the report adopted.

*Third Reading*

Bill read a third time, on motion by The Hon. A. F. Griffith (Minister for Mines), and passed.

## ADJOURNMENT OF THE HOUSE: SPECIAL

**THE HON. A. F. GRIFFITH** (North Metropolitan—Minister for Mines) [12.15 a.m.]: I move—

That the House at its rising adjourn until 11 a.m. today (Friday).

Question put and passed.

*House adjourned at 12.16 a.m. (Friday).*

# Legislative Assembly

Thursday, the 24th November, 1966

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ASSEMBLY, THURSDAY, the 24th NOVEMBER—*continued*
CONTENTS—*continued*



The SPEAKER (Mr. Hearman) took the Chair at 11 a.m., and read prayers.

## QUESTIONS

*Postponement*

The SPEAKER: I suggest that with the concurrence of the House we adopt the same general procedure with questions as we did yesterday.

## MARKETABLE SECURITIES TRANSFER BILL

*Second Reading*

**MR. COURT** (Nedlands—Minister for Industrial Development) [11.6 a.m.]: I move—

> That the Bill be now read a second time.

This measure is designed to introduce a new and simplified system of transfers of shares and securities bought and sold in the stock exchanges of Australia. The Bill incorporates procedures which have been agreed to in principle by the Standing Committee of Attorneys-General, State officials, and the commercial community. Each State has either introduced or is in the process of introducing similar measures into its Parliament.

Before explaining the proposals contained in this Bill, members may be interested in the background leading up to the introduction of this uniform legislation. Since 1961 the Associated Stock Exchanges of Australia have been advocating the introduction of a uniform procedure for transferring shares and other marketable securities bought and sold through brokers. This is because the present system, which involves the preparation of transfers signed by both the transferor and transferee, complying with different States' stamp duty laws and detailed checking by company or corporation officials, often results in frustrating delays in finalising transactions and registering the transfers. This is particularly evident in many transactions in which the buyer and seller are in different States.

Another feature of the existing system which has given rise to serious concern by State Governments is the avoidance of State stamp duty revenue by the use of Canberra share registers. At present no stamp duty is levied by the Commonwealth Government; consequently shares and securities transferred in Federal Territory do not attract any duty. It is common knowledge that many companies have opened registers in Canberra for the purpose of avoiding the impost of State taxation.

At a Premiers' Conference in 1963 the question of the avoidance of State taxation by the use of Canberra share registers was discussed. It was decided to refer the matter to the Standing Committee of Attorneys-General with a view to considering ways and means of protecting State revenues. It was also agreed that State Treasury officials should assist in determining the appropriate action required to overcome the problem of tax avoidance.

Certain proposals were advanced as a result of recommendations made by the Treasury officers and discussions between the Attorneys-General. After reference to the various State Treasurers, it was agreed in 1964 that a working committee should prepare draft legislation in the matter. However, before action was completed in respect of the proposed draft legislation, the Commonwealth Government announced that stamp duties were to be introduced in the Australian Capital Territory. This decision, of course, had an important bearing on the measures which were originally considered essential to stem the flow of transactions to that centre purely to avoid State stamp duty.

It was therefore decided, towards the end of last year, that at this stage the most urgent requirement was the introduction of uniform transfer arrangements for transactions involving stock exchange brokers, and that these arrangements should incorporate a return system for the payment of uniform stamp duties. This decision had regard to the benefits which would flow to all States and to the desirability of meeting the requests made by the Associated Stock Exchanges for an improved system of transfers and collecting stamp duty.

The States will benefit, because under the proposals all transactions effected through local brokers will be liable for stamp duty, therefore preventing avoidance of payment of this duty by the use of a Canberra register.

After further conferences between the Attorneys-General and officials, the legislation now before the House was prepared. It is proposed to bring it into operation, together with complementary amendments to the Stamp Act, during next year. The precise date from which it will operate will be determined after advice is received that other States have enacted corresponding legislation. For this reason

provision is made in the Bill for it to operate from a date to be proclaimed.

Provision is also made to bring sections of the proposed measure into operation at different dates. This is because a number of the proposed sections dealing with "authorised nominee corporations" are still under discussion in another State and it may not be desirable or necessary to operate them from the same date as the remainder of the legislation which covers the stock exchange transactions.

In considering the proposals in this Bill it is important at the outset to bear in mind that its operation is restricted to normal market sales and purchases conducted only through brokers of a registered stock exchange. It will not apply to other dealings conducted other than in this way. These will still be subject to the existing arrangements.

The Bill defines marketable securities as any share, stock, or debenture of a company or prescribed corporation, and these expressions have the same meaning as those given in the uniform Companies Act. This covers all shares, stocks, debentures, rights in shares, bonds, notes, or other documents bought and sold on the stock exchanges. The corporations with whose marketable securities the exchanges deal will be prescribed by proclamation.

Provision is made in the Bill for uniform forms of transfer of marketable securities to be used throughout Australia for dealings on the stock exchanges, and these forms are set out in a schedule to the measure.

When a transaction takes place, the selling broker is to complete the appropriate form and obtain the seller's signature. He is then required to place his stamp on the form. The buying broker is to complete the appropriate form for his part of the transaction, but in this case the transferee is not to be required to sign.

The broker's stamp is to take the place of this signature. This process will save a great deal of time, particularly where the buyer and seller are in different States. There are separate forms prescribed for all types of transfers in the schedule. These cover marketable securities which are fully paid and partly paid up, and the transfer of rights to marketable securities. A document bearing a broker's stamp is to be a valid transfer of marketable securities and may immediately be registered by the company or corporation concerned without further inquiry.

The broker by placing his stamp on the document indemnifies the company or prescribed corporation, the transferee, and the transferee's broker against any loss or damage arising from forgery or unauthorised signing. He will also, under a proposed amendment to the Stamp Act, accept responsibility for the payment of stamp duty by a return system.

The broker is not to be permitted to use this system of transfer except for ordinary sales at a consideration not less than the unencumbered market value of the marketable security. Penalties are imposed for affixing his stamp to other types of transactions.

Other clauses in the Bill provide for the validity of the proposed new system of transfers, ensure that transferees using this method are bound by the memorandum and articles of the company concerned, and provide other safeguards. The proposed arrangements will greatly simplify and speed up the procedure of transferring and registering marketable securities negotiated in the stock exchanges.

At the end of the Bill, clauses are inserted to provide for "authorised nominee corporations" to act on behalf of transferees of marketable securities which it is transferring to them. These corporations are to be permitted to affix a stamp to the transfer in place of the usual signature of the transferee. The corporations to be permitted to use this procedure are to be prescribed by proclamation. I understand that these provisions have been requested by the head offices of banking institutions which control the operation of certain nominee corporations. The transfers referred to in these clauses are not those made on the forms proposed in the schedule, unless the transaction is taking place through a stock exchange broker.

I explained earlier that the provisions in this Bill have been subject to exhaustive examination by the authorities concerned with the transfers of marketable securities and its principles agreed to by the Standing Committee of Attorneys-General. In addition, the draft Bill has been examined by the Stock Exchange of Perth and the chairman has advised that it conforms with the basic principles advocated by the advisory committee of the Australian Associated Stock Exchanges.

The measure is of importance to commercial undertakings and holders of marketable securities, and will effect desirable improvements to the procedures for transferring these securities.

Before concluding I would like to refer to the fact that this legislation is really an indication that we are starting to grow up in Australia in regard to this type of transaction. As we become a bigger nation, with more people, the number of transactions brings about a need for changes in methods so as to cope with the volume in a sensible way.

That is the main objective of this Bill. It does, of course, deal with a situation that has been causing some concern; that is, the use of Canberra registers as a means of avoidance. I suppose some people will not be pleased about this as it has

become almost a major industry in Canberra to register and have a share register there, which has meant a considerable amount of work for certain professional people. In the Commonwealth and State interests, I commend this Bill to the House.

*Adjournment of Debate*

**MR. SEWELL** (Geraldton) [11.16 a.m.]: I move—

That the debate be adjourned.

Motion (adjournment of debate) put and passed.

*As to Resumption of Debate*

Mr. COURT: Have I your permission, Mr. Speaker, to raise a query?

The SPEAKER: Yes.

Mr. COURT: The member for Geraldton moved for the adjournment of the debate on the Bill which I just introduced. I think it was the Premier's desire that the debate be adjourned to a later stage of the sitting. Is the present position that the Bill cannot be debated until tomorrow.

The SPEAKER: Yes, that is the position. The motion was put and the House agreed.

## STAMP ACT AMENDMENT BILL (No. 3)

*Second Reading*

**MR. COURT** (Nedlands—Minister for Industrial Development) [11.18 a.m.]: I move—

That the Bill be now read a second time.

This Bill is complementary to the Marketable Securities Transfer Bill which is aimed at providing a simpler and speedier means of effecting the transfers of marketable securities bought and sold on stock exchanges throughout Australia.

Part of the process of transferring marketable securities is the affixing of stamp duty to the documents concerned, because in every State these transactions are subject to the duties levied under the respective Stamp Acts. Members will appreciate that in complying with the differing requirements of these Acts, delays can occur, particularly where more than one State is involved in a transaction. In addition the registration of companies in Canberra is resulting in severe losses of State revenue. This was dealt with when I was speaking on the earlier Bill.

It was therefore decided, when drafting uniform procedures, to evolve a system of uniform stamp duty which could be paid without delaying the processing of transfers and to overcome the loss of revenue arising from the use of Canberra registers. This Bill now before the House is based on these uniform proposals and similar legislation has been introduced or is in the process of introduction in each State. Briefly the Bill provides for—

A uniform rate of stamp duty on all transfers of marketable securities.

The repeal of the provisions imposing duty on contract notes.

The payment of stamp duty on transfers of marketable securities bought and sold through the Stock Exchange by means of periodical returns from stockbrokers.

The revision of certain references in the Act to "stock" and "money" to bring these terms up-to-date and in line with the new proposals.

The uniform rate of stamp duty which it is proposed to levy is 5c for every $25 and every fractional part of $25 where the amount or the value of the consideration is less than $100, and 20c for every $100 and every fractional part of $100 when the amount or the value of the consideration is $100 or more.

It is to be noted that these proposed rates are only to be applied to buying and selling transactions, by brokers operating on a registered stock exchange, to which the proposed new Marketable Securities Transfer Act is to apply. They are to apply to both the sale and purchase of securities. Thus, the effective rate of stamp duty on each transaction is 10c for every $25 and part thereof for transactions below $100; and 40c for every $100 and part thereof for transactions above that figure.

The reason why it is proposed to split transactions into two parts and to apply separate duty to each is to overcome the loss of stamp duty on transactions on Canberra registers and to ensure that each State receives a proper share of the revenue arising from transactions which take place either wholly or partly in the State.

It is proposed that each broker acting either for a buyer or a seller, or both, will pay duty on transactions passing through his office. This changes the location of the imposition of duty and thus ensures that when a buyer purchases shares on a Canberra register in say either a Melbourne or a Perth broker's office, duty will be paid in those places. Under the present arrangements these transfers can be registered in Canberra with no regard to whether State stamp duty has been paid or not.

Many transactions initiated in this State are for the purchase of shares held by other State shareholders on Eastern States' registers. Thus the buyer is in Western Australia and the seller is in another State. Under existing circumstances it is only necessary for the company registering the transfer to ensure that the other State's duty is paid, and accordingly revenue is lost to Western Australia.

In the case I have quoted we will receive duty, under the proposed new arrangements, on the buying transaction and the other State the same amount on the selling transaction. In cases where both buying and selling takes place in the one State the total duty will be paid there.

The rate imposed on every $25 of value has been inserted at the request of Eastern States' stock exchanges. In those places there are dealers known as odd lot specialists." These brokers deal in small parcels of securities which are required to be sold through an odd lot specialist under stock exchange rules.

If stamp duty is imposed at so much per $100 of value only, sales at well below that figure would attract a comparatively heavy amount of duty. Therefore the steps in the scale have been reduced to intervals of $25. Although odd lot specialists do not yet operate in this State there is no doubt that as the level of transactions increases this service will be required and this type of dealer will become established. For this reason, and to preserve the uniform nature of the legislation, the provision for the odd lot specialist rate is included in the Bill.

The same rate of duty is to be imposed on transactions in marketable securities other than those to be transferred under the new arrangements for stock exchange operations. Our present rate of duty on the transfer of shares is 10c for every $25 and part thereof of the amount or value of the consideration. This is the same as that proposed in the Bill where the consideration is under $100. Where the total consideration exceeds $100 the amount of duty payable will also be the same as at present except in cases where a part of $100 is involved in the transaction.

For example, where the consideration is $200 both existing and the new duty will be 80c, but $250 will attract a duty of $1.20 compared with $1 under the present scale. In the case of transfers of marketable securities other than shares such as debentures, and secured and unsecured notes, the current rate of stamp duty is 10c for every $200 or part thereof of the amount or value of the consideration. The proposals in the Bill will therefore result in an increase in the duties paid on transfers of this type of security.

There is no real reason why the rate applicable to shares should not be applied to other types of marketable securities; and, in any case, it is necessary to charge at the same level as other States in order to achieve uniformity between States.

I pointed out when introducing the Bill for a Marketable Securities Transfer Act that the new transfer arrangements were only to apply to normal buying and selling transactions on the Stock Exchange and that other procedures for transferring marketable securities were to remain undisturbed. In order to prevent anomalies arising in the rates of stamp duty charged on these transactions and those made on the Stock Exchange, this Bill provides for the same rates of duty to be applied to all transfers of marketable securities.

Under existing legislation some States, including Western Australia, charge duty on contract notes, and options to purchase or sell marketable securities. The indications are that most, if not all, of the other States will drop this charge on the introduction of uniform stamp duty rates on marketable securities transactions on the stock exchanges. This Bill therefore provides for the repeal of the provisions relating to contract notes now contained in the Stamp Act.

The present rates of stamp duty imposed on contract notes range from 5c on notes for marketable securities of a value under $200, to 20c where the value is $1,000 or more. In the case of options, half rates are payable where the value is $200 or more. At present the provisions of the Stamp Act require the stamps on a transfer of marketable securities to be either impressed or cancelled at the Stamp Office. This means that each transfer has to be either taken or forwarded to the office and this procedure is both time-wasting and cumbersome.

As one of the major objectives in introducing uniform legislation is to provide a simpler and speedier method of transferring marketable securities, provision is made in the Bill for brokers to pay stamp duty by submitting periodical returns. Provision is made for brokers to keep prescribed records of each transaction; to enter required information on certified returns; and to lodge these returns with the commissioner together with the duty payable at stated periods.

Provision is also made to exempt dealer-to-dealer transactions so that only one amount of stamp duty will be charged where several dealers, often in different States, are involved in the one transaction. Exemption is also proposed for purchases and sales by a dealer on his own account, provided he does not retain the securities for more than two days. This provision allows brokers to correct errors and meet emergencies pending instructions from their clients. It is also proposed to exempt transfers of the marketable securities of the State Electricity Commission, and other governmental securities, which may in the future be bought and sold through stock exchanges. In other States, exemptions of this type are provided, and this State's instrumentalities will find themselves at a disadvantage in fund-raising if exemption is not provided.

As under the proposed return system and marketable securities legislation it is to be no longer necessary for transfers to be submitted to the Stamp Office or for the authorities registering the transfers to

ensure that they are correctly stamped, provision must be made to protect revenue in the event of default or evasion. For this reason penalties are prescribed for failure to submit returns and for non-payment of the stamp duty involved.

The proposed return system will only be available to brokers of the Stock Exchange. Transfers of marketable securities made other than through the Stock Exchange will be stamped and registesed in the normal way, and accordingly provision is made in the Bill to preserve this procedure. As most of these transfers are sales between individuals, a return system for them would not be practicable.

Other provisions in the Bill bring currency references up to date; provide additional interpretations of "marketable security" and "right in respect of shares"; and add exemptions to ensure that "options to purchase" and transfer forms are not subject to duty as agreements.

As I stated earlier, the main purpose of this Bill is to complement the marketable securities transfer legislation by the introduction of stamp duty provisions which will be similar in all States and will allow the proposed new system of transfers of marketable securities to operate uniformly throughout Australia. Its principles have been subject to careful analysis by many authorities throughout Australia and are endorsed by officials of our own stock exchange.

Members will appreciate the reason for this Bill. It is complementary to the earlier one and is part of the process of dealing with the expanding number of transactions taking place in marketable securities throughout Australia as part of our economic growth. I commend the Bill to the House.

Debate adjourned until a later stage of the sitting, on motion by Mr. Sewell.

## MARKETABLE SECURITIES TRANSFER BILL

*As to Resumption of Debate*

The SPEAKER: I would draw the attention of the Premier to the fact that, as a result of a misunderstanding, the Marketable Securities Transfer Bill will now not be brought on until tomorrow; but a possible course of action would be to adjourn the House at lunchtime and have a new sitting after lunch.

Mr. Hawke: That's lovely!

Mr. Brand: I will talk to the Leader of the Opposition about it.

## DEVELOPMENT OF THE STATE

*Establishment of Industries in Country Centres: Motion*

**MR. KELLY** (Merredin-Yilgarn) [11.31 a.m.]: With your indulgence, Mr. Speaker, I intend to read the motion at the end of my remarks rather than now, if that is in order.

The SPEAKER: Yes, that is in order.

Mr. KELLY: Thank you. This motion seeks to achieve what I would term a better planned development of the State's industrial programme with particular emphasis on the establishment of industries in country centres. I believe it is necessary to face up to this matter with the knowledge that something can be done and should be done, and done quickly. In my opinion it is necessary to stimulate and encourage development in appropriate districts. In this regard I realise there are many areas which are not suitable for development of any kind, and I also appreciate it is a difficult matter to create industries in some parts unless there is some potential for them and, to some extent, an abundance of the raw materials that are required for the industries concerned.

I think, too, the Government should be prepared to offer considerable inducements both to persons and companies that are prepared to establish industries beyond the boundaries of the metropolitan area. Up to now, all our industrial development has taken place either in or around the metropolitan area or, because of our mineral situation, in the north and north-west.

In the establishment of industries in country centres, we need to have a creative outlook and we should examine far more carefully than has been done in Western Australia over a period of time the possibilities that exist away from the metropolitan area. The fostering and encouraging of the required atmosphere, and the imagination that is required to establish industries in particular areas, calls for some specialised treatment. The Government must be prepared and willing to develop a realistic and futuristic outlook where practically none exists at the moment. I think that is very necessary, as far as Western Australia is concerned.

Mr. Rushton: I would say your last statement is rather unfair, considering what has happened in Western Australia.

Mr. KELLY: I do not think so. In the amount of time I have to introduce this motion I will come to that aspect, and, if the honourable member will be patient and will listen long enough, he will find that his remarks are rather premature.

In my view financial interests that would desire to extend their operations in country areas can be found, but it is necessary to bring constantly to their notice the possibilities that do exist in country centres; possibilities that have not been explored or envisaged up to date. It is essential that we extend our research into the possibilities of establishing industries beyond the Darling Range if we are to put into effect the opportunities that exist in a number of country areas.

One of the first matters the Government should consider—and this is something that has not been done very extensively up to now, with but a few exceptions—is that of rail concessions. This is an aspect that must be overhauled. Although it is not the entire and complete answer so far as the establishment of new industries is concerned, it does have a considerable impact; and it is patent that people in many of our rural areas are paying very high rates at the moment—they are paying through the nose, but I will have more to say about that later.

The Government must give consideration, too, to the introduction of cheaper water and power rates, because both of these rates have a considerable effect on industry. Frequently we hear it said that our rates in certain instances are cheaper than those being paid elsewhere, and we compare our position with that obtaining in New South Wales or Victoria. We hear it said that our power is better and less expensive; that our water rates are cheaper than those in the Eastern States; and so on. But I do not think it matters what is happening in the Eastern States. We are a little too prone to compare some of the things we do in this State with what is being done in another State, and we take what is done in some other State as a precedent.

We are a separate entity and we must stand on our own feet. When Bills are introduced and we are told that their introduction is a result of something being done in other States, or elsewhere, I think we are lacking in imagination and we should do something on our own without worrying about what is being done somewhere else. As far as assistance to industry is concerned, I believe the Government must be prepared to face up to the necessity for subsidies.

On a number of occasions in this House I have deplored the payment of subsidies and have said that this course should not be followed if some other alternative can be found; and I think it would be the aim of all or most Governments to endeavour to do that. However, there are some occasions when an incentive is needed to start some form of production in an area where no production has previously taken place. There must be some stimulus and that can be provided by a subsidy. Very often this brings about the commencement of an industry.

Frequently we find that small industries, particularly—and they are usually the ones that start in country areas—do not need a great deal of capital to get started; and in most cases they do not require subsidies for very long before they can stand on their own feet.

Some small industries are already established in country areas, and I refer to the making of cement products, and so on. But there again, freights on those products are high when compared with the advantages gained by people in some industries in the metropolitan area. We have small joinery works in the country and establishments spread throughout the State which are engaged in the making of different odds and ends. Those industries require some recognition as far as the Department of Industrial Development is concerned.

However, these industries established in the country are affected in several ways. They are affected in the first instance by the cost of power—power in the country costs so much more than it does in the metropolitan area; and rail freights are high on goods manufactured in country areas.

Mr. Williams: Under certain circumstances industrial power is much cheaper in the country than it is in the city—perhaps I should not have said "much cheaper," but it is cheaper in some instances.

Mr. KELLY: Slightly, but not sufficiently cheap; and if more inducement was given in this regard we would find there was a much wider field of establishment than there is at present. If we could provide an incentive by way of the assistance I have referred to, I am sure there would be an increase even in the small industries that are now established in a few centres, and other industries would be established in other places.

Speaking particularly in regard to the cement industries that have been established in several centres that I have in mind, they are handicapped as regards transport. The products from these industries can be taken directly from the yards to the people who are purchasing the products, but because of the transport regulations the manufacturers are limited. The transport regulations used to provide for a 25-mile radius, but that has been extended to 100 miles, and up to that distance goods can be transported by road. But if a farmer lives 105 miles from the centre where cement products are being manufactured, he cannot have them carted direct to his farm.

We should be able to overcome these transport restrictions, particularly when deliveries are made to places where no rail transport exists. In many cases these products have to be delivered to farms or other centres and I think we should look at that angle in an endeavour to assist small industries that are already established in the country. They should be given better treatment than they have had in the past and this will obviate any immediate increase in prices.

I think the field for the expansion and decentralisation of industry is very wide. The establishment of industries in the country is a matter that has been looked at but has often been thought to be too difficult to achieve because of the factors I have already enumerated. However, I

do not think there is any doubt at all that expansion is possible, and it should be encouraged in every way. In my view, and in the view of all on this side of the House, specialised attention should be given to this question of encouraging the establishment of industry in country centres. In this regard we must develop a creative outlook; one that calls for a degree of imagination; and this, in turn, calls for the appointment of a special Minister who can let his head go a little bit and who can be given the wherewithall to carry on the job. He should be a Minister who could apply himself to this work, and he should possess a degree of optimism.

There are some instances where the pleas of such a person would fall upon deaf ears, and his request may not be dealt with, with the same optimism as the Minister may have, or receive the attention that they warrant.

Talking of enthusiasm and honest endeavour, no matter how well-intentioned a Minister may be in his handling of this problem at the moment, not sufficient time can be given to it, and we believe a Minister should be given the task of decentralisation and a portfolio to that end should be established. This would have a stimulating effect on industry in the country, and undoubtedly he would be able to get support for this purpose from the Treasury. This would be of great benefit to Western Australia.

In this connection I would ask several questions, and they mainly concern the Minister for Industrial Development. I ask firstly: What progress has the present Government made in the establishment of industries in the interior, or even in the coastal towns?

My second question is: What encouragement has been extended to many of the larger towns in Western Australia where we know these possibilities exist? I am not suggesting that the Government should foster, for instance, the installation of a fish processing works at Kalgoorlie, or the establishment of a wool industry at a centre where no wool is produced. Such thoughts are furthest from my mind. However, there are many places where a little has been done in the matter of appointing country auxiliary committees to foster industrial development.

Mr. Williams: Are these committees to be appointed by the Minister, or should the initiative come from the local people themselves?

Mr. KELLY: The Minister knows the initiative has come from the local centres, and encouragement in no uncertain degree has been their experience. In fact, I could name quite a few within my own area, and I will do so before I resume my seat. As a gesture, it sounded rather magnanimous for the Minister to go here, there, and everywhere and say to the shire councils, "We think you should form a committee to foster and encourage industrial development. We are prepared to assist you to establish the committee and we will do this and something else, but we want the local people to know—"

Mr. Rushton: You accept this as a good idea?

Mr. KELLY: Yes, if it had been followed up; but it has not been followed up.

Mr. Court: This is only your idea.

Mr. KELLY: It is not only my idea, because I know many suggestions have been brought to the notice of the Minister, but he has done nothing about them.

Mr. Court: You would have been tearing strips off the Government if we had gone irresponsibly into these places.

Mr. KELLY: I do not think the Minister can say that irresponsibility is one of my traits.

Mr. Court: I said that you would have been tearing strips off the Government if we had gone into these places irresponsibly.

Mr. KELLY: I am now tearing strips off the Government, or the Minister, because nothing has been done.

Mr. Court: We have a very good performance up to date.

Mr. KELLY: Perhaps when I have finished my speech that performance will be whittled down a bit, because I am not unmindful of what has been taking place. My conviction is that not enough is being done in a specialised sense. That is what I am endeavouring to show at the moment. I know the Minister will put forward all sorts of reasons in an endeavour to indicate that something has been done. However, after 12 months, when all these committees had been appointed, and ideas had been formed by the local people which they began to put into effect with a view to doing something concrete about establishing an industry, and following the suggestions being put forward to those in authority, the matter seemed to rest.

Apart from decrying some conditions which could not be complied with by the local people, no further progress has been made in regard to the establishment of any industry in many places. I ask the Minister: What has become of many of the recommendations that were made to him? If it was the intention of the department to set up these organisations purely as a form of window dressing, it has achieved something, because they are now empty shops, as it were. In most cases the nucleus of these types of committees originated some five or six years ago or even earlier than that.

Is the Government prepared to rest on its laurels because of what it has done to date to develop the mineral deposits of Western Australia; or does the Govern-

ment intend to go a little beyond that point and achieve something more than that which has been achieved to develop the mineral wealth of the State over a period of only three or four years?

Whilst I am on the subject of mineral wealth, I would indicate to the House that this Government inherited the mineral wealth of this State; the Government did not create it. I admit the Government has taken steps to interest various companies to establish themselves here to develop various minerals, but the Government cannot take the credit for creating this wealth, because that wealth has always been in this State, and the information relating to it was printed in our geological bulletins many years ago.

Mr. Williams: It was not mined then.

Mr. KELLY: Why was the iron ore not mined?

Mr. Williams: It was never taken out of the ground.

Mr. KELLY: Why was it not taken from the ground?

Mr. Williams: Because nobody had the initiative to take it out.

Mr. KELLY: What balderdash that is! The honourable member had better talk about matters concerning Bunbury, because he knows nothing about the iron ore industry or what has happened in the past. Perhaps I had better enlighten the honourable member. As far back as 1958 endeavours were made by the then Labor Government to meet an overseas order for iron ore at a price much higher than the State is receiving today for iron ore, but because of the ban placed upon the export of iron ore from this State by the Commonwealth Government, that order was unable to be filled and no iron ore was permitted to be exported from Western Australia.

It was not until a certain gentleman in the Commonwealth Government found there was a big market for iron ore in Japan—and he became quite an entity in the Japanese commercial sphere and a controller of some of the Japanese firms; and he resigned from a high position in the Commonwealth sphere—that the ban was lifted by the Commonwealth Government. I think it was Senator Spooner who, in 1962, lifted the ban which had previously been imposed to prohibit any possibility of exporting one ton of iron ore from this State. So the member for Bunbury cannot tell me what happened in regard to iron ore at that time.

Mr. Court: You might as well complete the picture and go back a little earlier and tell us how your Government wanted to sell iron ore to Broken Hill Proprietary Limited at a royalty of 3d. a ton.

Mr. KELLY: I thought the Minister had a little more poise and balance than to try to deprecate the action of the Government at that time, because the Government which succeeded the Labor Government—it was of the same political complexion as the Minister for Industrial Development—eventually sold iron ore to Broken Hill Proprietary Limited at a royalty of 6d. a ton, and the royalty was only increased to 1s. 6d. a ton at the instigation of Broken Hill Proprietary Limited itself.

Mr. Court: Why don't you complete the story and tell the House that that was done because the iron ore was to be processed in Australia by Australians? In any event, it doubled the amount of the royalty that your Government was prepared to accept for ore to be processed overseas. The royality is now at a standard rate of 1s. 6d. a ton for iron ore to be processed in Australia.

Mr. Hawke: The present Government has been responsible for putting millions of dollars into the pocket of Broken Hill Proprietary Limited.

The SPEAKER: Order! The member for Merredin-Yilgarn may continue.

Mr. KELLY: Thank you, Mr. Speaker! It is very nice of you to come to my aid occasionally.

Mr. Court: By jove you needed it, too!

Mr. KELLY: The Minister for Industrial Development has tried to highlight the role the present Government has played in promoting the production of iron ore, especially in regard to its efforts in attracting interested companies to commence activities in this State; but can he tell the House the price that was being obtained for iron ore in other States of the Commonwealth, and in other parts of the world at the time the Minister accused the Labor Government of selling iron ore at a royalty of 3d. a ton?

Mr. Court: I do not know what the prices were at that time.

Mr. KELLY: No, of course, the Minister does not!

Mr. Court: It is the royalty we get that matters.

Mr. KELLY: The Government is not receiving the royalties it should be receiving, otherwise why is it imposing all these taxation increases on the people of Western Australia? In my opinion it has to impose these taxation increases and extra charges on the people of the State, because it is not obtaining sufficient revenue from the production of iron ore.

Mr. Court: The Government is getting quite a lot of money.

Mr. KELLY: I have in my possession a Press cutting of a report of a statement made by the Premier in which he said that within two years iron ore royalties would be flowing into the Treasury to such an extent that the State would be in a most favourable position; but of course

that is not the case. The people of this State in the lower bracket of incomes are being called upon to make up a deficit the Government has created, which has been in existence over the whole period it has been in office. So the Minister, in my opinion, has little to support some of the statements he has made by way of interjection and, in fact, they are pretty baseless.

Mr. Court: I think we deflated your story, anyway. That is the main thing in order to get the record straight.

Mr. KELLY: I can also tell the Minister that most of the iron ore deposits in this State have lain undeveloped for many years as a result of the ban imposed by a Commonwealth Government which was of the same political complexion as the party of which the Minister is a member. Until that ban was lifted nothing could be done in an endeavour to develop the iron ore deposits. That is well known. That was the experience of the Labor Government over a period of years. Only recently I was reading through some of the geological bulletins and it was then I made up my mind that I would put forward this motion in connection with decentralisation.

Mr. Rushton: Is not your question dealing with decentralisation?

Mr. KELLY: My question will be dealt with by the Speaker and not by the member for Dale. So whatever he may say about the matter will make no impression upon me. Quite a lot of the information concerning the mineral wealth of this State has been available in some of the geological bulletins, even the information concerning the Hamersley Range deposits.

In 1962 Senator Spooner made a statement that those deposits were discovered in 1952 and that their discovery had been kept a secret for 10 years. What a lot of rot that was! In 1917, I was managing a sheep station in the Gascoyne district. At one time an elderly man driving a dray with a couple of horses pulled into the station. He was searching for a place principally for the purpose of resting his horses, but also to have a spell himself.

He remained with me for a week during which time he recounted his prospecting experiences in various parts of the north. He indicated that there were large deposits of iron ore in the Hamersley Range, and as proof of his story he gave me some large samples of iron ore which I still possess. So it was a lot of rot for Senator Spooner to make the statement that iron ore had first been discovered in the Hamersley Range in 1952.

Mr. Jamieson: The Mines Department had records of it before that.

Mr. KELLY: It is on record that the deposits were known to exist before the turn of the century, but the extent of the deposits was not determined at that time. I take my hat off to the present Minister for Industrial Development for the interest he has shown in the development of the iron ore deposits, especially from the point of view of attracting companies to this State to carry out such development.

Once the ban on the export of iron ore from this State was lifted, steps could be taken, of course, to determine the extent of the iron ore deposits in that particular area. Nevertheless, apart from taking steps to develop the iron ore deposits of Western Australia—deposits which were not created by the Government—what other development has taken place? That is the question I ask the Minister. At this stage I will leave the question of iron ore in order to discuss, more particularly, the efforts that should be made to achieve better-planned development of the State, especially in those parts that still remain undeveloped, because I shall have quite a lot to say in that regard.

I branched into iron ore because I wanted the Government to realise that we are not altogether without some knowledge of what has been taking place. As a result of that, and because of the highly advantageous position that the Government was in once the ban was lifted, other development on an organised and a general basis should have been given more attention than was given. We have had this question posed to us: What opportunities did the Minister have at his disposal for creating industry? He said he had the answers, but we have had the answers from various parts where development has been attempted.

I desire now to deal with a much-discussed aspect of decentralisation, not only as it applies to some portions of Western Australia and the metropolitan area, but also to a particular district; because the committee which finally gave the worst possible answer to the attempt to decentralise comprised Messrs. Brand, Court, and Nalder. In this case their decision knocked back very fully the contention that the Government had decentralisation in mind at all. In this instance they failed to approach realistically the position that was placed before them.

They drenched with cold water the suggestions put forward for development. They were purposely underestimating the potential; and I use the word "purposely" with effect, as I shall explain. On this occasion they failed to face up to the facts, and those facts were well known to them. They failed to do anything about those facts.

Certainly a token effort was made to examine this case, and they appointed two committees. They obtained some data, but the data did not suit the purpose of the Government, so nothing further was done. They failed to convince those concerned that a genuine effort was being made to overcome what were described as difficulties. They failed entirely to convince

those people most concerned and most in the know as to where success would lie in this instance.

I say the best interests of well over 3,000 farmers were sacrificed because of the attitude of the Government. I do not care what argument is put up to defend the action of the Government, it is still very patent that a blunder was made, and that blunder has to be rectified. The attitude of the Government in this regard, when the best interests of over 3,000 farmers were sacrificed, was that there should be no sacrifice by monopolies. The monopolies were given the benefit of the doubt in every shape or form, and they were the advisers of the Government when it came to knocking back the request that had been made.

The other committee that was appointed produced a report which was enshrouded in pessimism. It was a report designed wholly and solely on an economic basis. Never at any stage in the report—I have read every word of it; I have the written comments of the various organisations which were affected; and I have other information that has come to hand since—was an attempt made to face up to the conditions in a practical sense, much less in the sense of endeavouring to create something that did not exist in an atmosphere where the opportunities were excellent.

This report was very well compiled, but it was a negative report so far as the advancement of this State was concerned. There was absolutely no encouragement. The figures which had been supplied were deprecated; and by that I mean the local conditions and the then existing conditions were under estimated very considerably, as the records of the railways would show. We had questions answered in this House by the score, and they gave the total amount of this particular product which was going to the various centres. They gave a very full picture not only of the current requirements, but also of the future requirements.

This report was the chopping block used by the Government to bolster its negative attitude. In every way the Government accepted what was given in the report, but it did not accept anything put up by the people engaged in an industry such as the one I shall refer to shortly. With all the time at its disposal, it did not interview one single person engaged in this industry.

In these comments I am referring to the proposal to establish an inland superphosphate at Merredin. This is not a matter of hearsay, because there are volumes of matter in print which could disclose the weaknesses in the report on which the Government based its ideas in arriving at the decision that has stood from that time onward. The Government has refused to come to grips with the facts that were presented by the representatives of the 3,000-odd farmers who were all prepared to come in behind the project. The Government had every reason to proceed with the project at that time, but it did not. It said the economics were unsound. But there was nothing more than a partial examination of the economics, and the matters contained in the report left a great deal to be desired, because they were not currently factual or representative of the figures of that time.

I have indicated it is my opinion and the opinion of the members on this side of the House that in its findings the Government took cover behind this committee to which I am referring—a committee that was overloaded with an economic bias, and therefore it should not have been the guiding factor in the Government's decision to either refuse, or accede to, the request of the 3,000-odd farmers who were affected.

Because of the Government's acceptance of this report—it notified the people concerned eventually—it showed that it had totally disregarded all the angles which had been put up: decentralisation, inland works, and service to producers. None of these factors were given a single thought in the report on which the Government based its decision.

The Government finally rested its case for the refusal to establish an inland superphosphate works in Merredin on eight very slender excuses. I desire to deal with these in the order in which they were presented to the people who were interested in the establishment of this inland superphosphate works. The first excuse was: The desire to minimise transport costs. What a nebulous statement that is—a desire to minimise transport costs!

If the Government was speaking of superphosphate and desired to minimise the cost, the remedy was at its back door. It could have fixed the cost of the transport of superphosphate at a very much more advantageous figure. If it was speaking of raw materials used in the manufacture of superphosphate at Merredin, then there was no differentiation between the freights, and none has been declared. What a hollow excuse that is for knocking back an industrial project of this kind!

The second reason given was: Access to adequate labour. What was done at Capel and Esperance to ensure adequate labour? Of course, there is adequate labour in most country centres. There was adequate labour available at Merredin at the time this matter was being discussed, and there is adequate labour now. In any case, where does industry generally obtain labour if there is a shortage in the area where the industry is being established?

It imports the labour, and that could be applied to Merredin in respect of the establishment of a superphosphate works.

The third excuse was: The adequacy of available water. Again this is a matter which can be easily rectified by the Government, because from time to time the size of pipelines has been enlarged. Electric power has been provided in place of steam power, and various steps have been taken to push more water into the goldfields area. To say that it was too big an undertaking to get the 7,500,000 gallons a year to this industry, and that it was not possible, without dislocating other sections, was a feeble excuse. Of course, it was possible to supply that quantity of water. If as much enthusiasm were shown in this project as was shown in the development of the iron ore deposits, an entirely different outlook would have been adopted by the Government.

The next reason was: The need for power at a reasonable cost. Again, this matter should have been remedied by the Government—it could have made the power available in the quantity required on a concessional basis. That would not be difficult at all.

Another reason was: Convenient siting to transport facilities. Fancy putting up an excuse of that kind, when we take into account what has transpired in the last 12 months in respect of the supply of superphosphate and the chaotic conditions which have resulted from the inability of the companies to supply the required amount at the time desired by the farmers! This Government has fostered the interests of the superphosphate companies; and it has done that right through to the exclusion of progress. A chaotic position arose, and members of this House representing agricultural areas received sheaves of telegrams and many personal calls from different people who were badly circumstanced over the supply of superphosphate.

This brings me back to the point of the convenient siting of transport facilities. I ask: What transport facilities are conveniently sited, except the railways? I understand the railways handled what the superphosphate works were able to supply. The Minister for Agriculture wrote to the Leader of the Opposition and disclosed his thoughts on this matter. I think it was very conclusive that the companies played a rather shabby part in the distribution of superphosphate when the conditions were difficult and when very many people, other than the 3,000-odd farmers I mentioned, were inconvenienced.

The next reason given was: Insufficient demand. I mentioned earlier that the report upon which the decisions were based had underestimated the position because the cost was based on the establishment of a superphosphate works capable of handling 50,000 tons a year or 100,000 tons a year. It is a well-known fact that the higher the production, the lower the cost. The committee used those two tonnages knowing very well that in 1965, 135,000 tons of superphosphate went to the Merredin area and were used within a radius of 70 miles. All those using the superphosphate expressed their intention of dealing direct with a superphosphate works in Merredin if one were established.

In 1966 the amount of superphosphate used in the area was 150,000 tons, and yet a works has been established in Esperance on the basis of 100,000 tons a year. But worse is to come. The conditions concerning superphosphate have been chaotic, and the farmers concerned have been affected. The situation will, however, be aggravated further still as a result of the present edict of the superphosphate companies.

It is proposed that in Merredin a depot will be established to handle 5,000 tons of superphosphate; but where is this superphosphate going to come from? It will come from Esperance, and the farmers will consequently have to pay an additional $1.75 per ton. In addition to this, we are all aware of the conditions that the company has imposed. The farmers have been told that they must place their orders by November, and must pay for them in February, but they will not use the superphosphate until May, June, or July. That is the magnanimous offer made by the company to the farmers in Western Australia.

It is beyond my comprehension that such trumped-up reasons should be given for not establishing an inland superphosphate works at Merredin. The next of these reasons was: Impossible to utilise all the wagons for back-loading.

Of course the Minister is quite able to build wagons for B.H.P. to cart its ore and charge only 1.42d. per ton mile. That is quite all right; but at the same time he is charging the rural industry roughly 3½d. per ton mile for the cartage of superphosphate and wheat in and out of the territory. If it is impossible for the back-loading of all wagons with phosphatic rock and the various other ingredients required for superphosphate—a big proportion of which is water—and if the Government cannot see its way clear to bring B.H.P. into line and make available a certain number of its wagons for this purpose, what is to stop the Government making available a set of wagons for phosphatic rock alone? As this State expands, Merredin will not be the only centre requiring a superphosphate works. One may be necessary even in the north-east and possibly inland from Esperance where much land is being developed.

The ninth reason given was: Freight concessions would establish a precedent. Goodness gracious me! The Government is charging B.H.P. only 1.42d. per ton mile, but, at the same time other industries, in-

cluding the rural industry, are paying very much more. The treatment extended to B.H.P. has already set a precedent.

Mr. Court: Anyone can get the freight rate that company is getting if the circumstances are comparable.

Mr. KELLY: The Government is to establish a railway line for the company, thus making Eastern States visitors and others go miles and miles out of their way in a circuitous route over bad country. The Minister has not seen the route, but he has accepted the assurance of his officers that the terrain is quite all right.

Mr. Court: I would accept the assurance of my engineers against your information any day.

Mr. KELLY: Residents have seen the terrain over which this line is to go, if it ever goes beyond Koolyanobbing—and there is every indication that it will not.

Mr. Court: How silly can you get!

Mr. KELLY: What about the Ord? We thought we were silly for not believing that the Ord scheme would be continued.

Mr. Court: This has all been arranged.

Mr. KELLY: We have the same kettle of fish here. The information I have did not come from the source which the Minister might have expected. There are rumours about this line. I asked questions about this.

Mr. Court: You got the answers.

Mr. KELLY: There are rumours that there is every possibility that a go-slow attitude will be adopted in connection with the completion of this line after it reaches Koolyanobbing.

Mr. Court: Don't be silly!

Mr. KELLY: We will see. We can easily watch the situation in the future and I will be one of those who will be very interested to see what does transpire.

Mr. Court: You will be very disappointed.

Mr. KELLY: Not one of these excuses the Government has offered would provide a valid reason to justify the Government's refusal to display at least some interest beyond an academic one. I would say it is still not too late for the Government to do something. The Government had a heaven-sent opportunity to advance its industrial development into country areas and failed dismally.

As I indicated earlier, if this motion is passed and adopted, many other industries could be helped, particularly if a Minister were given the responsibility of ascertaining for himself and the Government the potentials that do exist. Many half-hearted attempts have been made—and the Minister has probably made some of them—but because of the cost of the cartage of raw materials, and because 40 per cent. or 50 per cent. of the raw materials required would have to come from outside the district concerned, nothing has been done.

As I said, many aspects could receive the attention of a special Minister. Take, for instance, flour mills. It is very regrettable that a number of mills in country centres have closed down. These include those at Northam, Kellerberrin, Merredin, York, and several other centres. The closure of these mills has been as a result of the conditions under which flour is exported. Various other aspects, also, have worked against the best interests of these mills and they have consequently had to close.

However, it is not too late for a rejuvenation to take place so far as flour mills are concerned, because, after all, the majority of the hard grain is being produced in the inland areas. If we were in a position to offer some inducement to these companies in the way of freights, water, and power, I am sure the mills could be re-established.

A terrific amount of poultry and stock feed at the moment must go from the metropolitan area into the country districts. There is not a train goes by on which there is not a big quantity of the waste of the wheat on its way to the metropolitan area. Freight is paid on this, it is treated in Perth, and then freight must be paid again for the finished product, in the form of poultry and stock feed, to be returned to the country. An investigation into that state of affairs would reveal that a flour mill could be profitably established in some areas thus obviating the necessity to pay freight rates each way. In that way the farmers would be able to purchase cheaper stock feed.

With regard to bacon curing, some of the biggest pig auction centres have been established outside the metropolitan area in country districts where thousands of head of pigs are changing hands monthly. I feel there is need for an investigation into the possibility of establishing bacon curing works in a number of places. They need not be big or extensive; perhaps not as big as those in the metropolitan area. They would need to be modern and efficient, and this would create a big impact on the pig industry throughout the State.

Abattoirs are being established in several centres now. This has been a development over the last four or five years, but there is still room for abattoirs to be established in other leading centres; and I believe that a special Minister would ascertain all this information himself.

What would there be against the establishment of a central eastern districts wool auction? Auctions have been established in various parts of the State now, but mainly on the coast. There are a few inland, but not many. A central auction could be established to cater for the wool grown in fairly large country centres. This

wool at present is brought to the auctions already established. A 50,000 or 60,000-bale auction shed should be established in a centre which would serve the hinterland. There are certainly enough customers to keep the auction in existence.

Many other industries could be considered by a special Minister. Take, for instance, the manufacture of breakfast foods and other foods. The raw materials at present are sent from the country to the city where they are manufactured into foods, and the finished products are then distributed into the country.

I referred the matter of citrus growing to the Minister on behalf of a section in Southern Cross. Citrus can be grown in most of our areas, and I am speaking now mainly of the area from Merredin to Kalgoorlie. Not only can it be grown in this area, but the quality is amongst the best produced in Western Australia.

Mr. Sewell: The best citrus is grown in the Northampton district.

Mr. J. Hegney: Where is that?

Mr. KELLY: Citrus has been grown in most of the areas I have in mind. It may even be possible to grow one or two oranges in Northampton. I would not know.

Mr. Sewell: Ask the Premier.

Mr. KELLY: If this is possible, perhaps that is another reason why a special Minister should be appointed. The quality, flavour, and size of citrus grown in some country areas is beyond belief. I have had the opportunity of visiting many country shows at which citrus has been displayed. There has been nearly as much as would be found at the Royal Show, and the quality is really beautiful.

In this instance of which I am speaking, there is a railway dam lying idle at Moorine Rock. The Minister for Railways was approached in connection with the use of this dam. I would say the probable capacity of the dam is only 2,500,000 gallons of water. The Railways Department never draws any water out of it—in fact, over a period of 20 years, the department might not have used it twice. The Minister knew full well the conditions which applied to this dam and he, as Minister for Railways, should have been able to give a very definite reply to the attempt to establish a citrus grove near this dam at Moorine Rock. There is plenty of good quality land around it which would have produced citrus fruit within a few years. But, no! The dam must be kept by the Railways Department in case the department wants it. As I have said, the Railways Department has not at any time wanted it over the period of the past 20 years.

About 20 years ago—and even then I was interested in this area—the Government of the day kept a man employed to watch the dam, which was never used. The man in question watched this dam for a period of 12 or 18 months, but finally the Government terminated the man's employment.

Could the Minister's attitude on this question be called helpful? He said he was prepared to grant a six-monthly lease; that people could grow their orange trees, but if at the end of the six months, the Railways Department wanted this water for its own use, the growers would have to disband. This is not a very helpful attitude to the problem of decentralisation. This is not a helpful attitude towards encouraging the establishment of something in the way of growing citrus fruit in country centres.

Only cheap water would be necessary to establish the industry, because citrus fruit cannot be grown without water in these drier regions. However, citrus fruit can be grown in those areas, and it can be grown well if the water is available. The fruit which has been grown has been found to have a wonderful flavour.

If the idea advanced and the project was successful, there is no reason why a juice extraction plant could not be established for this industry.

I would like to cite another instance; namely, we are paying high rates for superphosphate of the potash variety. During the war a considerable amount of potash was produced at Campion. I might add that at the end of the war, Chandler potash was fetching somewhere in the vicinity of £3 5s. a bag. However, because conditions at the end of the war relaxed in so far as the import of the same product from France was concerned, it was found that in order to sell from Campion, the potash had to be sold at 28s. 6d. a bag. At the time, it was not possible to produce it for that price on the extraction basis, because of the older type of machinery, the lack of modern methods, and many other debarring factors. However, today there is a different position altogether, and I consider something could be done with regard to the reopening of those works.

I have a few questions on the notice paper today in which I ask for further information in connection with this area. The possibility is there. I consider the Minister for Industrial Development should give some thought to this, because he is the Minister who has the development of Western Australia on a planned basis solely at his feet. He should not put all his eggs in one basket. If one disregards Kwinana and the iron ore, there is very little else of any importance in motion in this State at the present time.

Mr. Hawke: Do you know the retail price of imported potash?

Mr. KELLY: No, I do not. I consider I have dealt sufficiently well with this

motion to indicate that these are not my own thoughts—not entirely, anyway. A lot of these thoughts have been conveyed to me from people in various parts of Western Australia and over quite a long period of time. This motion is the culmination of many suggestions which have been made and of many queries which have been received as to why something has not been done. Therefore, I take this opportunity of bringing this matter forward for the consideration of the Government.

As I said before, I anticipate a flock of reasons why the Minister will not be able to act along the lines which have been suggested.

Mr. Hawke: You will get many reasons, all right!

Mr. KELLY: I know. Whether the reasons are good or bad, we will get them just the same. However, I am quite prepared to sit in this House and listen to what the Minister has to say. I am of the opinion—as I have remarked—that a considerable amount of work is being done in some quarters as far as decentralisation is concerned. However, I will not pursue that comment further, because I do not desire to detract from the Minister's defence. Earlier this morning I said to him jocularly that I realise he works 28 hours out of every 24. That only goes to show he is being overworked. Therefore, the appointment of a separate Minister for decentralisation would have a much more beneficial effect than would the passing of this question of decentralisation on to the present Minister for Industrial Development, because one man can only go so far when it comes to doing a reasonable job all of the time. Therefore I desire to move—

> That in the opinion of this House, in order to achieve a better planned development of the State, more emphasis must be placed upon the establishment of industries in country centres.
>
> In order to stimulate and encourage industry to develop in appropriate districts, the State must be prepared to offer special inducements by way of—
>
> (a) railway freight concessions;
>
> (b) lower charges to cover the supply of water and power;
>
> (c) subsidies.
>
> To this end, it is imperative that a portfolio of decentralisation be established, and a Minister appointed to give special attention to this phase of Government.

Debate adjourned until a later stage of the sitting, on motion by Mr. Brand (Premier).

## MOTOR VEHICLE (THIRD PARTY INSURANCE) ACT AMENDMENT BILL

*Second Reading*

Debate resumed from the 17th November.

**MR. GUTHRIE** (Subiaco) [12.38 p.m.]: Of course, this measure is yet another step in a long line of steps in the history of this very vexed subject. The plan for compulsory third party insurance was first publicly debated in the 1930s, if my memory serves me aright. I have not checked on this, but I think I am correct in saying that it had its baptism in New Zealand in the year 1928. In the 1930s a plan was talked about in this State for the provision of compulsory third party insurance. The suggestion had a fair amount of opposition, very largely on the grounds that it would only cause increases in the accident rate.

In those days, it was quite actively said that one of the factors which controlled motorists was the fear that, if they had an accident, they would be liable for very heavy damages which they would have to pay out of their own pockets. It should be remembered that, in those days, not every motorist had a comprehensive third party insurance policy. Even so, the comprehensive third party insurance policies which existed then did not give complete cover. The normal third party insurance policy which was issued at that time did not cover the driver of a vehicle against a claim for damages by a passenger in his vehicle.

Members might well remember, too, that there used to be cars with little plates on the glove-box which read, "You ride in this car at your own risk." What the legal effect of it was, no one quite knew. However, the prospect of having an accident caused fear, and many motorists would not pick up people along the roads to give them rides, because, if they were unlucky enough to have an accident and they were found guilty of negligence, they would be liable for the whole amount of the damages. Also, very many hardship cases on both sides developed as a result of accidents. People who were unfortunate enough to be found guilty of negligence discovered that all their assets disappeared in settling the damages which were awarded against them; and, in other cases, of course, plaintiffs failed to recover.

A serious situation arose and it was realised that sooner or later something had to be done. I have often wondered whether the opinion which was held in the '30s—that is, the fear of having to bear a heavy amount of pecuniary damages being a deterrent to bad driving—was not in fact, correct.

I am aware of the fact that Sir John Barry—who is a judge of the Supreme Court in Victoria and to whom I shall refer later—has been inclined to say this is an outmoded idea. However, when one reads

the address of the same judge who gave startling statistics on the colossal increase in accidents in Australia which have occurred and who considers that those increases occurred simultaneoulsy with the idea of compulsory insurance, one wonders whether some rethinking should not be done on this subject to see whether or not it is contributing to the carnage on the road.

It is also said that the abolition of fault in accidents—in other words, not making it necessary that the claimant should prove negligence—would increase the accident rate. Whether that is so, or not, I would not know. However, again this is a factor which must be looked at. I think members should also bear in mind when considering this subject, and keep at the back of their thoughts, the possibility that compensation and the freedom from complete liability on the part of the faulty driver must, in some way or other, have a bearing on the increase in the accident rate.

Compulsory third-party insurance was introduced in this State in 1943, which was a time when I was not in this State. It was during the war and, consequently, I have no personal knowledge of the debates that went on, not only in this House but among the public, generally, when this scheme was introduced. However, it was introduced in a different form from that in which we find it today. At that time, before an individual could renew his license or obtain a new license, he had to produce to the traffic authorities a certificate of insurance which stated that he had satisfactory and approved insurance on his vehicle. When he produced that, the authorities would issue him with a license.

Of course, that system led to a great deal of extra work on the part of the police and the local authorities, and, in the country districts, it produced almost chaos. One can well imagine the difficulties which confronted a resident in the north-west in connection with going to a licensing authority and producing a current certificate of insurance, when the latter had to be issued in Perth.

Therefore the Act was amended in the year 1948 and came into operation on the 1st July, 1949, when the present Motor Vehicle Insurance Trust came into being. That trust has existed for quite a while now—for some 17 years. At this point, I want to say I consider the trust has done an extraordinarily good job. It has been extremely fair in its approach to accidents and it has been extremely fair in its admissions of liability. I can say this without any fear of contradiction, because of the many cases I have handled since the Motor Vehicle Insurance Trust has been in existence. I, personally, have handled not less than 500 claims and possibly as many as 1,000, and I have yet to issue a writ against the trust; I have yet to have a case which I cannot settle by negotiation.

That speaks volumes for the fairness of the trust. There have been many cases where, had I been compelled to take court action, my client would not have recovered one penny, because he did not possess any evidence at all which would have proved negligence. Yet the trust examined the facts of the case as they came forward and said it would agree to accept responsibility for one-third apportionment, two-thirds apportionment, 50 per cent. apportionment, or something of that nature.

I have been greatly relieved in such cases, because if it were necessary for my client to go to court he would have failed through lack of evidence. As I have said, that speaks volumes for the trust. The trust does not take advantage of the situation to which I have referred. It is obvious it is aware that that situation must arise in many instances.

Members will appreciate that a man can be involved in a motor accident and be rendered unconscious; his mind might be a complete blank. He could not give evidence and there may be not witnesses. The only evidence would be that of the person he is nominally suing. I want to emphasise that point. I have read recently in the Press some reference to cases between subject and subject; whereas in reality they are claims against a statutory body set up by this Parliament.

For quite some time there has been a deal of dissatisfaction with the present scheme. I will concede that the dissatisfaction has been expressed very largely by the Motor Vehicle Insurance Trust itself. The Motor Vehicle Insurance Trust is a body that sees all the claims. It has handled thousands upon thousands of claims since its inception, and it has a great deal of knowledge of the subject

Bearing in mind what I have just said about the fairness of the trust, we cannot pooh-pooh its ideas and say they are the views of self-interested insurers; because that in fact would be quite incorrect. It is purely a trust administering a fund, and the only thing which the participating insurers undertake at all in this scheme is in effect, to guarantee the fund. The very amounts that have recently been mentioned in this House show that the fund is insolvent; that in the event of its being wound up tomorrow there would be insufficient money available, despite the large amount it is supposed to have invested, to meet all the claims on the fund. The axe would then fall on the participating insurers. As the guarantors of the fund they would have to foot the bill; and that is why some pecuniary consideration is provided for them in the legislation. It is to compensate the trust members for undertaking the liabilities they do without completely acting the part of Father Christmas.

Whether 5 per cent. is a fair percentage, or whether it is not, is not for me to debate. But it is fairly obvious that some

consideration should be offered to someone who undertakes a contingent liability. It is established business practice that a person who has no connection with another person, and guarantees an overdraft for that other person, is entitled to some consideration for signing the guarantee.

These proposals have not come before this House as a result of any hasty conclusion or any short consideration. It is within my knowledge that as long ago as 1959 the Chairman of the Third Party Motor Vehicle Insurance Trust, Mr. Pearce —who still holds that position and who is a gentleman well known to me—wrote to the Minister drawing his attention to the situation that then existed and suggesting that reform was necessary. I have had an opportunity to read the letter in which he put up these suggestions to the Minister. But as far as I can discover it was not until 1964 that the Minister made any move in the matter. There have been numerous consultations since then.

A Government parliamentary committee met representatives of the trust as long ago as 1964 to discuss this issue, and I was one of the members who took part in those discussions.

*Sitting suspended from 12.50 to 2.15 p.m.*

Mr. GUTHRIE: When the sitting was suspended for lunch I was making reference to the fact that these proposals have been actively under consideration since 1964 and the original request by the Motor Vehicle Insurance Trust for reform was made as early as 1959.

During the course of these fairly hectic two years of discussions, quite a deal of alteration has been made to the conception of the scheme and quite a lot of concession has been made by the Minister. The scheme before us now is very much better than the one originally proposed. I think I could also say that there is no subject I know of in the law on which there has been more written, more documents, more reports, and more suggestions for reform than this one. In fact, there is a wealth of literature on this subject right throughout the English speaking world.

The proposals contained in this Bill are not novel; they are not the production of laymen in Western Australia, as I will illustrate in a little while when I read from some of the reports which have been prepared. The earliest report is the Columbia report which, if my memory serves me correctly, was written as long ago as 1932.

In considering all that has been written and said on this subject, it is important always to remember that, in various parts of the British Commonwealth and of the United States of America, a great difference exists as to conditions and set-up. In some places there are jury trials, whereas in others there are trials only by judges. In some places the rule of apportionment of damages according to the proportion of negligence applies. In others, the last opportunity rule still prevails. In other words, if a person is said to be the person who contributed to the accident to the greatest or last extent, he can recover nothing.

I have not time to go into a long dissertation on that subject. Suffice it to say it has not applied in this State for a great many years. In some places there is great court congestion, while in Western Australia there is not. In Western Australia we have a trial by judge under the third party Act, and there can be no trial by jury in these cases. In Western Australia we have apportionment of damages, and in Western Australia we have little or no court congestion.

It is of some importance to understand just what does happen under our third party Act in regard to the apportionment of damage. It is not merely apportionment of damage on the Admiralty principle. If two people sue each other, one sues and the other counterclaims, and each may be held 50 per cent. responsible; and, if by any chance their losses are assessed at the same figure, one would recover nothing against the other and the result would be that they would have had their litigation and neither would recover one halfpenny from the other.

The way it works under the third party Act, is that if A and B are each 50 per cent. responsible for an accident and they both suffer damage, each only recovers from the trust 50 per cent. of his actual loss and there is no deduction of one set of damages from the other set of damages. That factor must always be borne in mind. If this were a case of action between subject and subject, that would not be the result.

There have been quite a lot of suggestions for an inquiry. Let us pause for a moment and look at this suggestion. As I have said, there has already been a considerable amount of research carried out and there is also a considerable amount of literature to read on this subject, and I doubt whether an inquiry would produce anything new that has not already been written, considered, and reported upon previously.

Secondly, if we had such an inquiry who would conduct it? Would it be a judge or a lawyer who had preconceived ideas and whose preconceived ideas would undoubtedly colour the report which resulted. Or would it be someone who had no knowledge at all of the subject, and whose report, therefore, could well be a gamble? Quite frankly, I think it would be extremely difficult to find anybody who was suitable to conduct an inquiry into this subject, and who would not go into it with

some preconceived ideas of his own. The value of such an inquiry, to my mind, would be doubtful indeed.

Mr. Evans: Could not those objections apply to persons other than the judge on the tribunal?

Mr. GUTHRIE: Not necessarily; it is a totally different matter. A person on the tribunal will try a particular case on the facts and reach a decision. But this is a matter on which people have fixed ideas and views before they start, and it is something which is a matter of opinion. As members know, magistrates and judges are handling the normal cases every day. They have to apply themselves to the facts of each particular case, and they accept their responsibilities. But where a matter is entirely one's personal opinion, it is very different. That person is not reaching a decision on the facts at all.

Quite apart from that, a great deal of statistical research is needed before any further inquiry can be made which will produce anything of great value. All the reports, as I will demonstrate, come back to one recommendation: the ultimate abolition of fault. Every one of the reports presented has been rejected for the reason that abolition of fault would impose such a high cost on the community. However, nobody has taken the trouble to work out what that cost would be, and I will demonstrate that point a little later, if I have sufficient time.

It would be quite simple, over a period of five or six years, to get the necessary statistics to show what a scheme, based on no fault, would cost the community. As far as I know, those statistics are not available today and, therefore, would not be available to a Royal Commissioner appointed in this State.

There are available to me, and no doubt to others, three rather notable publications on this subject. They are publications from Australian sources and they are, firstly, a report which was published in November, 1963. I am not sure when it was written. Three Queen's Counsel in New South Wales were appointed as a committee by the Bar Association of New South Wales, and that committee reported to the Bar Association. The Queen's Counsel concerned were Mr. N. A. Jenkyn, Q.C., Mr. H. H. Glass, Q.C., and Mr. T. E. F. Hughes, Q.C.

An article based on their report can be found in volume 37 of the *Australian Law Journal*, on pages 209 to 227. Members will appreciate that that report is far too lengthy for me to make much reference to it this afternoon. However, in a moment I shall read a short extract from it.

The second publication of interest is also contained in volume 37 of the *Australian Law Journal* and is an account of an address delivered by His Honour, Sir John Barry, to the Southern Tasmanian Bar Association some time in 1963. A report of that address can be found in volume 37 of the *Australian Law Journal* on pages 339 to 349. Sir John Barry is an experienced judge, and was a very experienced barrister in this field.

The third publication is a paper which was prepared and delivered to the Commonwealth and Empire Law Conference held in Sydney during August of last year. It was prepared by Sir Leslie Herron, Chief Justice of New South Wales, and Mr. Justice Asprey, of the Supreme Court of New South Wales. That paper was presented to the legal convention, on the 26th August, 1965.

Of the three publications, it is noteworthy that the three Queen's Counsel supported the retention of the system which then existed in New South Wales. The other two, Sir John Barry and Sir Leslie Herron, and Mr. Justice Asprey, recommended some form of change. It must be remembered that the three Queen's Counsel in their report, were favouring a system which existed in New South Wales, a system where there is no apportionment of negligence and where there is trial by jury.

They came down fairly strongly on the side of trial by jury. They did not come down, it must be remembered, on an assessment of damages by judges. They quoted the report of a Royal Commission in Victoria, which was conducted by Dr. Coppel. He also had similar views, and it is noteworthy that in Victoria the situation is trial by jury. Also, in Victoria, there is no apportionment of damage.

That point must be remembered when considering the remarks of those people. It has been stated to me, on more than one occasion, by a number of lawyers from New South Wales and Victoria that we have a completely wrong conception of what trial by jury means. Those lawyers have said to me that we only read about cases which raise major issues and which are publicised in the Press. We never hear of the ordinary case. It has been said to me on more than one occasion that a jury of practical men assess damages much closer to earth than does a high-falutin judge living in an ivory tower. Remember, we have assessment here by judges.

It has always been said—and it was the original conception of the assessment of damages in these cases going back to the beginning of things—that the ordinary man was the man to assess the loss of his fellow man.

Unfortunately I feel I cannot place too much reliance on the report by the three Queen's Counsel, because of an unfortunate remark the three gentlemen make at the very end of their report. It is headed, "Final Observation on the Necessity of Preserving the Existing Judicial

System," and they said that they could do no better than adopt the language used by Robert H. Kilroe, a member of the New York bar, in a paper entitled, "Necessity for the Preservation of the Judicial Process in the Interest of Persons Injured in Automobile Accidents" delivered by him at the Symposium of the New York State Bar Association held in 1953. They go on to quote what he said. This is what he did say—

> An automobile compensation programme based on liability without fault, is pure, unadulterated socialism. Under such a scheme the general public would suffer because the seriously injured and the permanently injured victims would receive inadequate compensation; the livelihood of many lawyers would be destroyed; a majority of our judges would be replaced by a horde of bureaucrats; the private insurance companies would be eliminated and the social planners would take the next logical step by invading the fields of life and accident insurance.

When I find that these people subscribe to those views, whether they are right or whether they are wrong, I can only make the observation that in this State we have gone way past that point—we did so a long time ago. We went past it in 1943, and we went further past it in 1948. So whether we are right or whether we are wrong, we have not got a system which lives up to Kilroe's ideal. When I find the three gentlemen who prepared the report have their views coloured by such thoughts I begin to wonder whether they are quite up to date in what they put forward.

Mr. Jamieson: Good Liberal philosophy.

Mr. GUTHRIE: No it is not; it is the philosophy of Tories, and we are not Tories. It is also the philosophy of the Labor Party when expediency suits it to adopt such a philosophy, as we will no doubt find out later this afternoon.

Now we turn to Sir John Barry's very thoughtful address. He reviewed the colossal casualty rate on the roads and said there were more people killed and injured on the roads in Australia than were ever killed or wounded in all the wars in which Australia had been involved since the turn of the century. He said that the casualties on the roads at that time were over 1,000,000; whereas there were only 555,000 killed, wounded, and P.O.Ws. in all the wars this century. He discussed the situation, and I think one quotation is applicable to this particular question and to the situation in which we find ourselves today. It is a very apt remark. On page 342 of this journal he said—

> I take it as fundamental that the broad purposes of a civilised legal system are to protect life, to ensure liberty and to promote the pursuit of human happiness. Within the field of compensating victims of automobile accidents, it can be asserted with no fear of rational contradiction that the common law has failed; that the conceptions which the law invokes are inadequate and outdated, and that the methods it uses to determine the questions that arise do no credit to judges and the legal profession.

Those are very strong words coming from a judge of the Supreme Court of Victoria. I ask members to bear in mind that they are not my words; they are the words of Sir John Barry. Later, on the same page, Sir John saw fit to quote some words attributed to Sir Victor Windeyer, he, of course being a justice of the High Court of Australia. He quotes Sir Victor Windeyer as saying this—

> The real consideration in my view is that the whole system of negligence actions is outmoded in ordinary accident cases. The actions are utterly unreal. We live in an insurance age. we live in a motorized and mechanical age. People are suffering from accidents which are part of the hazards of the times we live in; they arise not out of and in the course of our employment but out of and in the course of our daily lives . . . The time will come, I am sure, when we will abandon this pretence of a contest between a plaintiff and a defendant, one maintained by one insurance company and the other by another, or one maintained by a trade union or somebody else and the other by some insurance company. We will have some system of assessing the damages by a competent tribunal regularly accustomed to it.

These again are the words of a justice of the High Court. On page 344 of the same address, Sir John Barry went on to state this—

> An essential prerequisite to a rational consideration of the question is to escape from the shackles of the past and the constraints of familiar ways and the tug of self-interest. It is difficult, when one has grown up with a system, to see that there is anything fundamentally wrong with it. The first step is to admit what is surely self-evident; that the present method of providing compensation for victims of automobile accidents is no longer adequate to meet an urgent social problem of grave and growing dimensions, and that some other way must be adopted. The next is to acknowledge that changed social conditions have made liability for fault, as the rule to determine where loss should fall for injuries sustained as a result of the use of motor vehicles,

anachronistic in concept and unjust in operation.

Finally, on the same page, he had this to say—

> But even if we agree there must be some such scheme—

He had outlined a scheme, or applauded a scheme attributed, I think, to Professor Parsons, who was once here. It was an insurance scheme without fault and he went on to say this about it—

> But even if we agree there must be some such scheme, its details are, of course, bound to give rise to conflicting opinions and honest differences. At that point it would be wise to bear in mind that perfection is unattainable in human institutions, and that progress in any field of human endeavour is largely achieved by experiment and experience, and by using sensibly the lessons derived from trial and error.

I must draw attention to the fact that Sir John Barry had come down on the side of abolition of fault, and I must emphasise that he made his remarks in that context. We cannot assume, therefore, that he would have said exactly the same thing if he were considering this Bill. On the other hand we cannot assume that he would not have said the same thing. But I do say, and suggest, that his remarks are very apt to the situation in which we find ourselves today.

If members are interested they will find in both reports which I have quoted a very long bibliography of the reports on which Sir John Barry and the Queen's Counsel relied for the findings and their opinions.

Time presses on and I must box on, but I would like to make some reference to the paper that was delivered to the Commonwealth and Empire Law Conference by Sir Leslie Herron and Mr. Justice Asprey. At the outset they reached no conclusion, but they put up a series of thoughts for discussion and those thoughts were along the lines of abolition of fault. However, they did see fit to quote in the course of their address the remarks attributed to Mr. Justice Hofstadter of the Supreme Court of New York. Who Mr. Justice Hofstadter is, I do not know, but I do not doubt that a judge of the Supreme Court of New York—bearing in mind that New York is the largest State in the United States—must be a person of standing, and the fact that he is quoted by the Chief Justice of New South Wales when presenting a paper to the Empire Law Conference would suggest to me that he is a person of whom some notice should be taken. This is what Mr. Justice Hofstadter said—

> When the blow strikes, the complainant can obtain redress only by proving the operator careless. But if his own negligence contributed in any way, he may not be so recompensed, whatever the fault of the operator.

It must be borne in mind that in New York there is no apportionment rule. Continuing—

> These rules are so harsh that juries circumvent them, trial of these cases is largely a matter of chance, the courts are jammed, justice is delayed, and many accident victims are denied reimbursement. Alternative theories predicated on fault are more sound but miss the heart of the problem. The solution lies in granting compensation on a prearranged schedule regardless of fault—as in Workmen's compensation.

This is the important and significant part of his remarks—

> If immediate adoption of such a plan is not possible, automobile cases should in the interim be assigned to special tribunals consisting of a judge, a layman and a physician, with apportionment of damages substituted for the rule of contributory negligence. In the era of the automobile, no victim of its thrust should be required to carry the burden of his pain and suffering alone.

It is noteworthy that he suggests, as an interim measure, the appointment of a tribunal such as is suggested in the Bill; and it is possible for the tribunal that will be constituted under the provisions of this Bill to consist of the type of persons Mr. Justice Hofstadter has suggested.

Mr. Norton: Does he deal with the right of appeal?

Mr. GUTHRIE: No, he does not mention the right of appeal, but I will come to that point in a moment; the honourable member need have no fear about that. It has been said that cases in New York are delayed for three to four and a half years. That is a fact which I must concede as one which would have had a prevailing influence on the judge's thoughts. From all this information it emerges that distinguished jurists have suggested the appointment of tribunals and propose elimination of fault, but the latter cannot be contemplated until we have more statistics.

The Bill is an attempt to do something rather than continue to wait in the knowledge that nothing will happen. The only place in the British Commonwealth where an attempt has been made to do something is Saskatchewan where a scheme has been introduced on limited payments. Nevertheless, that is a scheme under which the injured party is still left with the right to sue the person who is negligent, and he is merely given credit for the amount he receives under the compensation scheme.

That is the only Province, State or self-governing territory in the British Commonwealth or the U.S.A. which has taken any action, and this State will be the second to attempt to do something.

The Bill provides for five major reforms. Firstly, it provides for the abolition of the rule of spouse *versus* spouse. Secondly, it provides for the removal of the limit placed on damages claimed by passengers. Thirdly, it seeks to establish a tribunal. It does not provide for the appointment, as some people have claimed, of two insurance assessors. It would be impossible for two insurance assessors to be appointed, and it is a great pity that some of the people who have criticised the Bill did not take the trouble to read it thoroughly. The Press and the legal profession alike are at fault in that regard.

If the Bill provided for the appointment of two insurance assessors, it is obvious that we would not get a chairman to accept the position, because no lawyer would sit on the tribunal if two insurance assessors predominated. The Bill provides that one of the persons appointed shall not have had any connection with insurance for at least seven years.

It is a little unfortunate that the Minister for Agriculture, in his introductory speech, made some reference to the fact that there were no great changes made from the 1965 Bill, because I believe that led people to gain the mistaken impression it was not necessary to read the present measure. In fact, however, compared to the Bill that was previously introduced, there are many major changes proposed in the measure now before the Chamber.

The final important provision in the Bill seeks to limit the right of appeal. Among the five important provisions I mentioned I omitted to refer to the one which provides for periodical payments; I am sorry I missed that. That is important and is a new development which has not been suggested anywhere else. As to the tribunal, there seems to be some objection to it, but I suggest that the objection is based on the supposition of what the tribunal will do. There is no provision in the Bill which empowers the tribunal to limit damages in any way. It will have to assess damages in the same way as courts assess them today, except on slightly different lines; namely, the power to award periodical payments.

The proposed new system under the tribunal will be a cross between trial by judge and trial by jury. The Bill provides for the chairman to be a legal man who may be a judge, or a lawyer who has the qualifications or status of a judge, and for the appointment of two laymen who will sit on the tribunal with the chairman. It is therefore a half-way house, as it were, between the jury system and the judge system. It is quite wrong to assume that judges cannot err or are infallible, and it is equally wrong to assume, as the trust has pointed out, that there is one standard of assessing averages adopted by all the judges.

With six or seven judges hearing claims for damages, the problem arises that six or seven different standards can be used for assessing damages, which is completely confusing to everybody. Few would know of the many cases which never come to the courts; or whether the settlements made in regard to them are right or wrong, or merely a guess. There is also the doubt, if such cases had been brought before one of the six or seven judges, as to what the result would have been.

With the appointment of the tribunal there will be one set of standards, and if it is found that the tribunal is becoming restrictive in its assessment of damages—as Sir John Barry has pointed out—it then becomes a question of trial and error, and Parliament can give the matter further attention at some time in the future These claims are analogous to the claims made under the Commonwealth Repatriation Act. The tribunal established under the Act consists of a chairman who is a legal man, and two laymen.

I now come to the question of right of appeal. The Bill provides for right of appeal both on fact and law on the question of the responsibility or the apportionment of the responsibility for the accident. On the notice paper appears an amendment I propose to move in Committee, which amendment contains what I understand to be the intention that there should always be a right of appeal on a question of law in cases dealing with claims for damages. Only *quantum* of damages is left uncovered by right of appeal, but with the new method of assessment errors should seldom occur, and the margin of error could be narrowed.

It must be borne in mind that even if there were the right of appeal, it would only be the same right of appeal as exists as from a judge to a superior court; namely, that the superior court can only upset the decision if it considers it to be so wrong as to be unworthy to stand, but it has no power to alter the amount of damages awarded merely because it disagrees with the amount. With the tribunal, an appeal court would not alter the damages awarded unless it thought them to be completely inadequate.

I suggest the Bill is worthy of commendation, and it represents an attempt to make some reform. The lot of the reformer is always hard. There are always people ready to campaign against a reformer and this Bill is no different to any other reform that has been attempted in the past. If one reads the pages of history, one will realise that there are always

people who will lambaste others who desire to change an established system. In the eyes of some people the courts of law are the only institutions that were established more than 200 years ago which should still stand today unaltered. I know of no other institution that will stand up to that test, and I suggest to members of the legal profession that they take another look at themselves, because, in my humble opinion, the law courts themselves are ripe for reform. I support the Bill.

**MR. EVANS** (Kalgoorlie) [2.50 p.m.]: I cannot find myself being in agreement with the previous speaker who suggested that this is a Bill of reform. I qualify my remarks by mentioning that I shall support the Bill, because of the two principles which first appear therein. In speaking to the third provision—which I find most objectionable, and which appears to be the sole reason for the Government to introduce such a Bill—I cannot class the Bill in that regard as a reform.

If one likes to put the clock back to the period of the Star Chamber—that is what we are doing here—perhaps one can be excused for regarding such a procedure as a method of reform; but I cannot concur with that view at all. It would appear to me that on this occasion the member for Subiaco is a maverick, and that he is out of line with the thinking of the great majority of his colleagues in the legal profession.

Mr. Guthrie: What about the views of Mr. Justice Windeyer, Sir John Barry, and other gentlemen?

Mr. EVANS: Those gentlemen were not speaking in such direct reference to a tribunal such as is proposed in the Bill. It is easy to lift words out of context, and the devil can do that and quote the scriptures for his own purpose. Let us look at the Bill. It affects three sets of amendments. The first two sets are highly commendable, and I intend to support them. The third provision is definitely objectionable, and when the Bill reaches the Committee stage I intend to oppose the third provision strongly.

The two desirable amendments comprise, firstly, the abolition of the present limit of the liability of the trust, arising out of an award given against an insured person for injury or death caused by the negligence of that insured person through the use of a motor vehicle; and, secondly, the right for one spouse to sue the other, where the injured spouse has been affected by the negligence in the use of a motor vehicle by the other spouse.

These actions are probably the most frequent instances of injustice that can arise out of the present prohibition whereby one spouse cannot sue the other. This is a long overdue reform. To my knowledge, Bills containing this reform have been introduced on at least four occasions in as many years in this House and in another place. On one such occasion, the Bill did pass the other place and was transmitted to this House; but, through the exercise of the majority vote of the present Government, it was defeated. That was a Bill to bring about this very reform of which I am speaking. It is a desirable reform, and is one which commends itself to this Parliament.

I now turn to the third provision embodied in the Bill—the one to which I have taken exception, and in this I am by no means Robinson Crusoe. I believe that each member has received within the last few days a letter from a very well-known, and a highly-esteemed member of the legal profession practising in Perth. It is the full text of a letter which he sent to the Editor of *The West Australian* a few weeks ago, a version of which appeared in that newspaper on Friday last. The author was disappointed that the full version did not appear, and he attributes this to the fact that his letter was rather long and would command more space in the newspaper than it was possible to allocate. This letter was sent to members of Parliament to acquaint them with the full facts of the position. The opening paragraph of this letter reads—

> I have just returned from a journey abroad to many countries which practise the rule of law, which is administered in a manner similar to ours. I learn on my return, with pained dismay, that one of our privileges (an essential of that rule of law) is proposed to be given away. I refer to the right of the subject to resort to the Court and the Judges thereof to have his wrongs vindicated and his hurt compensated.

I wonder what Mr. Justice Windeyer would say to that propositon? This provision to abrogate the rule of law in this regard is concerned with the abolition of the present jurisdiction of the Supreme Court. At the present time the Supreme Court deals with the majority of disputed cases coming within the meaning of the Act, and such cases are, without doubt, the most common cause of action in these days.

I would like to mention that in the October issue of the *W.A. Current Law Notes* published with the approval of the Law Society, which deal with all cases coming before the Supreme Court within the last two months—in both appellate and original jurisdiction—there are 40 cases listed. Of those no less than 11 are shown to be concerned with motor vehicle cases which resulted in injury or death.

The Bill in this regard is truly remarkable in that it seeks to destroy what from time immemorial has been held to be precious. I refer to the same thing that

was mentioned by the Perth lawyer in the letter previously referred to; that is, the right of a citizen in an ordered democracy to have free access to the courts of law, recognising that the courts of law are the foundations of justice, guaranteed by the Constitution—either written or unwritten, rigid or flexible—of the democracy.

This is the very right that has merited special attention in the very famous document which was written at Runnymede in 1215—the *Magna Charta*. This very right is specially preserved by that document, but in this Bill there is to be a rejection of that right.

The courts of law are the bulwarks against tyrrany, despotism, and injustice of any description. Is this position to continue? It cannot be said that this position will be continued if this piece of legislation becomes law. To rob the Supreme Court of its jurisdiction, the Bill aims to create a claims tribunal. As I have already said, cases arising out of the negligent use of a motor vehicle causing death or bodily injury provide the most common causes of action in these modern times.

I mentioned the fact that the *W.A. Current Law Notes* of Western Australian cases decided within the last two months, indicate that approximately a quarter of the time of the Supreme Court has been devoted to this type of case. We all know there are seven judges of the Supreme Court, so if we like to calculate the time that would be taken by the Supreme Court if it sat full time on these cases, we would find, on the experience of the last two months, which is by no means rare, that two judges would be required to sit full time to handle them.

Mr. Guthrie: You do not suggest seven judges sit each month in *nisi prius?*

Mr. EVANS: I do not; but I am saying that the Government is asking us to agree to a tribunal handling these cases. We are told that one of the reasons for the establishment of this tribunal is to avoid overlong delays. I think that speaks for itself.

Mr. Guthrie: Normally only two judges sit in *nisi prius*. Therefore that would mean only half a judge.

Mr. Hawke: What does half a judge look like?

Mr. Court: What is your attitude to the Workers' Compensation Board which is a—

Mr. EVANS: I will come to that.

Mr. Court: What is your attitude to it?

Mr. EVANS: There is a right of appeal to the Supreme Court by way of a case stated. Is anything like that intended inder this legislation?

Mr. Guthrie: On what?

Mr. Court: On very limited grounds.

Mr. EVANS: Recently the salaries of our Supreme Court judges were upgraded as a recognition of the dignity of their office, the importance of their work, and, no doubt, the pressure placed upon them. Yet here we are asked to remove from their jurisdiction those cases which are the most common in the courts these days. In this legislation I can see nothing more nor less than a vote of no confidence by the Government in the judiciary.

If the Government feels that the pressure upon the judges is becoming too great because of this type of action, would it not be a better idea to enlarge the bench or to provide one or more judges to specialise in these cases? In that way the rule of law would still be intact. The change proposed under this Bill is not merely a change of jurisdiction: it is a fundamental change in law.

There is no right of appeal on a question of law or of *quantum*. Experience has proved, as anyone will glean from reading from time to time the pages of *The West Australian* devoted to reports of cases in the Supreme Court, that many cases which come before the Supreme Court are settled in accordance with consents which have previously been arranged between the parties. The judge has been notified that a consent has been arrived at, and in many cases he makes the order in accordance with that consent.

We know that by far the greater number of these cases never reach the court. Many of them are settled by consent out of court. However, most of those which do reach the court and are not settled by consent, are concerned with the question of liability and whether or not negligence has been proved. It is this vital question of liability which is being removed from the jurisdiction of the Supreme Court and given to the exclusive jurisdiction of what might be called an inferior tribunal.

The member for Subiaco has foreshadowed an amendment to proposed section 16F to provide for a right of appeal in connection with questions of law. The point I want to make is that if the member for Subiaco is successful—and I certainly hope he is; I do not know whether it signifies an agreement between the member for Subiaco and the Government, because our past experience has been that whenever a Government member moves an amendment the Government accepts that amendment; but members of the Opposition cannot hope for the same favour by any means—it will mean that many of these cases which now go to the court on a question of liability will flow back to the Supreme Court, anyway. If that is the case, what is the use of the establishment of the tribunal? Why channel through the tribunal back to the Supreme Court? Why not leave these cases within the jurisdiction of the Supreme Court?

Another remarkable feature is to be found in clause 12, portion of which reads—

> 16B. (1) The costs of the administration of this Act in relation to the establishment of the Tribunal and the carrying out by the Tribunal of the provisions of this Act shall be borne—

Guess by whom? Continuing—

> —as to two-thirds thereof by the Trust and as to the other one-third thereof by the Treasurer.

Is this the real reason for the introduction of the Bill? The nominal defendant in these cases will bear two-thirds of the cost of the tribunal. Having regard for that fact, can a layman be blamed if he feels aggrieved as a result of a decision of such a tribunal? After all, not only must justice be done, but it must manifestly appear to be done, and the presence of this clause in the Bill indicates that justice is not being done.

Let us have a look at the provision contained in clause 15, portion of which reads—

> 16E. (1) Subject to the provisions of section sixteen F of this Act, the Tribunal shall, on and after a date to be proclaimed, have exclusive jurisdiction to hear and determine all actions and proceedings brought against an owner or driver of a motor vehicle, or against the Trust, claiming damages in respect of the death of or bodily injury to any person caused by or arising out of the use of a motor vehicle.

The important words are that the tribunal shall have exclusive jurisdiction to hear and determine all actions and proceedings. Although the previous speaker is not in his seat, I am sure he can hear me and I would like to express the opinion that perhaps his foreshadowed amendment has failed to take cognisance of the provisions of clause 15 of the Bill; because his amendment does not purport to have any effect on this clause. I repeat the clause provides that the tribunal shall have exclusive jurisdiction to hear and determine all actions.

Subclause (3) of clause 15 reads, in part, as follows:—

> (3) No proceedings before the Tribunal shall be restrained by injunction, prohibition or other process of law.

When introducing the Bill the Minister claimed that one advantage which would flow from the tribunal's establishment would be the cutting down of delays; but, of course, at best that can only be a half truth.

Mr. W. Hegney: That is right.

Mr. EVANS: Surely the Minister would know that, and most certainly his advisers would know it; because it is inherent in many of these cases that time must elapse so that the cases can mature and assessments can be made. Such a tribunal will still be up against the very same problem.

The Law Society has published its thoughts on this matter and it is strongly against the provision for a tribunal. If a change in the procedure, and the presentation and the hearing of these types of claims is desirable, then, according to the views of the Law Society, with which I agree, there is nothing in the Bill—or in the Minister's remarks—which could not be achieved by a simple alteration to the rules of court. In fact, the measure which is before the House proposes the creation of a further area to be occupied by what can best be called, "The rule of no law."

The final point I wish to make on this subject is to pose a question to the Minister. I ask him if he would clarify a particular problem which I see arising from this legislation. If the Bill seeks to provide uniform standards of awards and to eliminate delays—the second of such aims I feel is highly doubtful, and the first I think is highly undesirable—how can the Minister reconcile these aims with the provision in the Bill which allows cases to be farmed out to local courts?

Immediately somebody other than the tribunal deals with the cases, where does uniformity go? Possibly the delays could be cut to some extent by farming out to local courts—delays which must necessarily bank up because only one tribunal is handling the cases. We find that seven judges of the Supreme Court during the last two months have dealt with 40 cases, 11 of which concerned motor vehicle accidents. To my mind, one tribunal is going to increase the delays—those delays which are not inherent in the nature of the claims themselves. Therefore, I ask the Minister to explain how he resolves this problem: If the Bill seeks to provide uniform standard awards and to eliminate delays, what about the provision for farming out certain cases to local courts?

I must conclude my remarks by saying that because of the merit of the first mentioned desirable amendments in this Bill, I intend to support it; and, having regard to all I have said before, I hope the Bill is supported at the second reading stage. However, in Committee I intend to vote strongly against the provisions which lead to the establishment of this tribunal.

I must comment on the practice which has been adopted by the Government in bringing forward this Bill which includes these two desirable amendments; but I would mention that as recently as two years ago, one of the amendments which is now brought forward was completely rejected by the Government. I refer to the amendment which deals with the immunity of suit in the case of one spouse against the other spouse. However, I cannot approve of the Government including

these two highly desirable reforms and then tacking on something which is as objectionable as the provision which deals with the setting up of a tribunal. I feel this latter action is to be depreciated. In Committee I must oppose the lastmentioned provision with all the vigour at my command.

Debate adjourned until a later stage of the sitting, on motion by Mr. Durack.

*(Continued on page 2833)*

## WESTERN AUSTRALIAN INSTITUTE OF TECHNOLOGY BILL

*Second Reading*

Debate resumed from the 22nd November.

**MR. DAVIES** (Victoria Park) [3.18 p.m.]: First of all, I would like to thank the Premier for adjourning this Order of the Day when it came up this morning and, in addition, I would like to say that I am sorry I was unable to be here to make my contribution to the debate at that time. I must emphasise I appreciate the Premier's courtesy in this matter.

I do not think there will be a great deal of argument on this measure. It has made its appearance somewhat late in the session, but I think this was because the Government had to wait on the report of the Jackson committee in order that members of the Government might know where they were going. This accounts for the delay. I surmise the Government has brought it down this session so that the institute can become operative fairly soon, rather than that the whole matter should be delayed for another 12 months.

The question of education, generally, is one of great concern and I think all of us will applaud the establishment of the Western Australian Institute of Technology. While in some quarters it has been claimed to be an exclusive institution, there are other institutions in Australia which are somewhat similar. However, none of these other institutions has been set up in the one area as this institute has been. I am sure we are very fortunate indeed to have it established on such a fine site, and fortunate, too, in the fact that there is room for expansion.

We hope, eventually, to expand to the country areas. I do not know whether the Government's intention will be to take over, say, the School of Mines or the Muresk Agricultural College. No doubt the Government will wait until such time as the Jackson committee has completed its investigations in order that it might have something on which to base its policy.

It is unfortunate that the Jackson committee is not having many submissions made to it. Apparently the six-man committee has only had 25 submissions so far —12 from individuals not associated with organisations; and the others from organisations of various sorts. So, while the committee has not been very active, it has brought down an interim report.

Mr. Brand: It has been sitting regularly and spending a lot of time on the matter.

Mr. DAVIES: From a reading of the report—of which the Minister was good enough to supply me a copy—it is obvious that the main provisions in the Bill have been based on the recommendations of the Jackson report. The Bill has also taken into consideration some of the recommendations of the Martin committee and the Wark committee, two very active committees on education which in recent times have delivered reports.

I am afraid there is abroad some confusion as to the function of the institute. Many people who have not had very much to do with the institute rather take it as a form of technical education service, whereas it is quite distinct from that, and also quite distinct from the University. It seems to me that it is complementary to the University, as the Minister described; and yet I think it is obvious that it could work independently of the University. The description given to it by Prof. J. D. Alan Williams of the W.A. University is as follows:—

> . . . there was in fact no competition between university and technical college.
>
> A university was a collection of scholars interested in the free discussion of all sides of every matter.
>
> Its first job was research and extension of knowledge; its second, passing on that knowledge because it was no use extending your knowledge if it died with you.
>
> This was the difference between the university and the State Education Department, whose first job was to teach people.

This also defines the difference between the Institute of Technology and the University. I still think there is a certain snob value in connection with the University, and I will have something further to say later about the types of awards to be granted by both bodies. I think everyone will applaud—including the teaching staff and the Education Department generally—the complete autonomy which has been granted to this body. It is apparent, because it is so unique in the education system, that it should not be tied either to the University or the Education Department, but rather it should, for a great variety of reasons, be completely autonomous; although there is a representative of the senate, a representative of the Education Department—that is the Director-General or his nominee—and the Director of Technical Education, who will also sit on the permanent committee.

I do not think this representation will try to force in any way on the institute any of the ideas which abound within the

Education Department, and which it might like to see applied, but which might not be satisfactory.

I believe the main complaint in regard to the running of the institute so far is that there have been no lines of communication with the Education Department. It has been necessary to get the committee under way, but now it is under way I believe it should be completely divorced, and this is what the Bill proposes to do.

The Education Department has little more than a nominal interest in the actual running of the institute. It has been interested in the means of constructing and equipping the institute, but that is about as far as it has gone. It appears that the complete running of the show has been left to the staff which has been appointed, and they have done very well so far except that there is just a degree of uncertainty regarding the future which it is now proposed to clear up.

There is at the institute a staff association which has been formed; because it is realised that the institute is going to be rather singular in the education system, and it will be necessary for the staff association to preserve its interests. I believe it comprises something like 80 members and is quite a representative body.

I sought the views of this staff association on the legislation and, generally, it appears to be acceptable to the members. I have also had the opportunity to discuss several of the complaints with the Minister for Education, who has been particularly co-operative; and, as a result of his having considered the representations made, there are already several amendments on the notice paper.

I think the main concern in regard to the functions of the institute and the power of the council which is to be set up to manage the institute is the type of award that shall be made. In clause 7 of the functions it says—

> . . . subject to this Act and the Statutes to award appropriate diplomas or certificates to enrolled students who have attained standards approved by the Institute in examinations and to other persons as prescribed.

Diplomas or certificates are not very well appreciated by the people at the institute. They have already had quite a bit to say on this matter, and they believe this is the part of the Bill they would most like to see changed. They believe a degree would be highly desirable—perhaps a degree of a bachelor of technology or an associateship, which is awarded at present; but they feel that a diploma or a certificate would reduce the status of the institute.

Because their recommendations are so widespread, and because they feel so intensely about this matter, I would like your permission, Sir, to read their remarks; and I quote as follows:—

> This is opposed on two grounds.
>
> 1. It is presumed that the Certificate will be awarded for sub-tertiary courses at the Technician level. It is considered that this is entirely wrong and opposed to the objective of providing tertiary education for courses having matriculation level entrance requirements.
>
> If Certificate courses are offered they can only reduce the status of the Institute.
>
> Whilst it is agreed that some subtertiary students in senior years of technician courses could be housed at the Institute pending suitable accommodation being found elsewhere (as will Institute students presumably attend at Perth Technical College until accommodation is available at South Bentley) it is contended that they should be offered a Technical Division Award and not a Certificate of the Institute.
>
> 2. The term Diploma should be rejected in its entirety. Some of the points in support of this contention follow:
>
> (a) So far as is known, the tertiary committee is still seeking information regarding the nature of the award and has yet to make a submission in this respect. It is considered undesirable that political action as envisaged should be taken before full consideration of the opinion of educators and others concerned with tertiary education has been considered.

I might interpolate here to say that the staff association was not aware of Mr. Justice Jackson's report, and for that reason the association thought the committee was still making inquiries. In the Jackson interim report it is said that the institute should grant other forms of awards, such as diplomas and associateships. That is on page 2 of the Jackson report. I do not know whether this is a final decision of the committee, but although it mentions diplomas and associateships, it is apparently not happy about certificates being awarded.

I now continue to quote the views of the staff association in regard to its rejection of the term "certificate"—

> (b) In Western Australia the term Diploma has long been associated with sub-tertiary courses which in the main are not accepted by professional bodies. If the term is adopted at the Institute, the two awards are sure to be interchanged in the eye of the public. This will result in the loss of hard-won status.

I think the Government—most certainly the Opposition—is desirous of keeping this institute on the highest possible status level, and this is something which must be looked at when considering what kind of award will be granted. Continuing to quote—

(c) There is already one Institution (the Institute of Diploma Engineers) existing in Western Australia and using the term Diploma. Its members are entitled to state they hold a Diploma in Engineering. This Institute is known as a sub-tertiary Institution. Hence, again if the Institute awards Diplomas in Engineering the status of the graduates will be reduced.

(d) At the University, the Diplomas (apart from Post-Graduate Diplomas) are much less than Degree in status. Undoubtedly the status of the Institute Diploma would be equated somewhat with these, thus again reducing its status.

(e) If transferring to other Institutes of Advanced Education (including Universities) in Australia for post-graduate work, difficulties in obtaining recognition for Diploma work could well be accounted.

That is quite understandable. Continuing—

(f) One disadvantage of the present award (Associateship) is that it has no recognised status overseas. Thus students seeking to do advanced study or have recognition accorded their qualifications have a very much more difficult task than University students, whose Bachelor Degrees receive wide recognition. Future Institute students would be possibly more disadvantaged than present students, for the Diploma is widely accepted throughout many parts of the world as something inferior to a Degree. It is quite unjust to so penalise students because of the bias they prefer to place on their studies.

(g) Professional Institutions, particularly those from overseas, generally accord less recognition to diploma students than to degree students irrespective of the course content.

In one recent case, for example, a Perth Technical College Associateship was accepted as granting partial exemption from a professional institution's entrance requirements, whereas the same course as a degree would almost certainly have been accorded full exemption rights. Thus students are again disadvantaged.

(h) The length of academic study in the present Associateship (3 years of 36 weeks) is effectively the same as that of a 4-year University degree (4 years of 26 weeks each). Hence there is every reason why an Associateship student should be awarded a degree.

(i) Everything points to the award of a degree—say the Bachelor of Technology.

If the Diploma is accepted at this point, nearly a generation of Institute graduates will be severely disadvantaged in many respects. The only possible reason for the award of the Diploma seems to be a desire to prevent the Institute becoming another University.

Whilst we agree fully with this sentiment we are also sure that the name of the award will not do this. Rather the calibre of the council and senior officers appointed will establish the necessary bias in the Institute.

(j) If it is not deemed desirable to introduce a B.Tech. now, it is suggested that the present title remain unchanged as an Associateship and that the interim council should be charged with the duty of recommending an appropriate qualification.

I do not think that is unreasonable. An associateship is awarded now; and I do not think the term is as wide as they would like. I believe the form of award should not be upset at this stage, because of the excellent reasons that have been outlined by the staff association. I am sorry I did not give this information to the Minister earlier. It was only brought to me about 5.30 p.m. yesterday, otherwise I would have passed it on to him for his consideration.

Their main objection to this Bill is that it is setting a form of award, and the form of award has been changed to certificate or diploma, rather than associateship, or, better still, to a degree such as bachelor of technology. I hope the Minister will give consideration to this matter. Perhaps he may even suggest that the Jackson committee's views could be taken into consideration at this stage or, alternatively, there may be a reason next year to amend the legislation. As has been pointed out, this measure will affect many students if it is passed in its present form.

The constitution of the council to be set up is a very wide one. As I have already said, the only ties with the Education Department are in the appointments of the Director-General of Education and the

Director of Technical Education. The University will be represented by one person from the senate, and the staff has representation in the form of two persons, who are full-time members of the academic staff of the institute, and they will be elected by members of the staff. This is very pleasing indeed. I do not think this council would operate very effectively if the staff were not represented.

The only disappointment, of course, is that there is no staff representation on the interim council. Members will recall that the Minister said the other night no appointments had been made to the W.A. Institute of Technology up to the present time, and all of the instructors at the moment had been seconded from the Education Department and are generally connected with the Technical Education Division. However, it is quite obvious that some of these instructors will eventually be appointed to the permanent staff.

I hardly imagine that of the 80-odd instructors at the institute at the present time all will return to the Education Department and that there will be a completely new set of instructors appointed in their place. The interim council to administer the institute is only half the size of the proposed permanent council. Three members of the council will be appointed by the Governor, and I should imagine they would represent industry, trade, and commerce. I think those are the terms used.

The Bill states that the council shall consist of persons appointed by the Governor representative of professions and industrial and commercial interests. The interim council will have as one of its members the person for the time being holding the office of Director-General of Education, and another member will be a person appointed by the Senate of the University of Western Australia. Then, of course, there is the executive officer of the institute. The council has the authority to appoint a chief executive officer of the institute and I think this is a very good move rather than have a ministerial appointment, or an appointment by the Education Department.

The council is to run the institute and will appoint its chief executive officer. However, as no such person is appointed the interim council cannot operate without him. So it is a case of which comes first: the chicken or the egg—the chief executive officer or the council. The amendment proposed by the Minister will overcome this difficulty.

The main complaint from the staff at the institute is that there is no staff representation on the interim council. The council will be appointed for not less than two years and for not more than two years and three months. This is possibly the best way to do it and possibly the only way to do it. But perhaps it might have been more practicable to have the interim council appointed for one year, or better still to place in the Bill a provision that the interim council shall cease to function on a date to be set by the Minister some time within the period of two years and three months. That is, if during that period the Minister thought the function of the interim council could be suspended, and a permanent council appointed, the Minister would have the right to do it. The Bill now provides that the interim council shall be in force for at least two years, but this may not be necessary.

The staff is disappointed that there is to be no staff representative on the interim council. It was hoped that the staff position would have remained much as it is at present, and the staff would have been able to be represented on the council with the right to speak, but not the right to vote.

If I can forecast the Minister's feelings, he thinks the interests of the staff can be looked after by the nominee of the Director-General of Education, or by the Director of Technical Education. I feel that this is not reasonable. Those two persons are so far away—in their administrative capacity—from the ordinary functioning of the institute that they will have no real knowledge of how the institute is functioning. There would be a natural reluctance for individual members of the staff to approach them to make representations to the council.

The situation could be compared to the Minister's office boy having direct access to the Minister on any matter he might wish to discuss with the Minister at any time and at any place. However, of course, there are proper channels for people to go through, and I feel that to suppose that two representatives of the Education Department will effectively represent the views of the staff at the institute is drawing too long a bow.

Even at this stage I hope the Minister will consider the addition to the council of a person representing all the staff as it exists now. For a period of 12 months, such a person would have the right to speak, but not the right to vote.

The SPEAKER: Order! May I suggest to the member for Victoria Park that he seek permission to continue his remarks at a later stage?

*Leave to Continue Speech*

Mr. DAVIES: I move—

That I be given leave to continue my speech at a later stage of the sitting.

The SPEAKER: Has the honourable member the permission of the House to continue his remarks at a later stage of the sitting? I would like a member to move that the debate be adjourned until a later stage of the sitting.

Motion put and passed.

Debate adjourned until a later stage of the sitting, on motion by Mr. Brand (Premier).

*(Continued on page 2809)*

## PRIVATE RAILWAYS (LEVEL CROSSINGS) BILL

*Message: Appropriations*

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

## BILLS (2): RETURNED

1. Totalisator Agency Board Betting Tax Act Amendment Bill.
2. Kewdale Lands Development Bill.

Bills returned from the Council without amendment.

*Sitting suspended from 3.45 to 4.8 p.m.*

## QUESTIONS (8): ON NOTICE

### HOUSING

*Flyproofing and Hot Water Systems: Provision after Rental Increases*

1. Mr. HAWKE asked the Premier:

(1) Are rentals in the process of being increased in some instances, including within the Education Department, by upwards of 50 per cent.?

(2) If so, are such proposed increases to operate irrespective of whether the dwellings occupied have been upgraded progressively to include such necessities as flyproof doors and windows and hot water systems?

(3) If so, when are such necessities likely to be provided?

Mr. BRAND replied:

(1) Rent increases, where applicable, will operate as from the 2nd January, 1967, but such increases will be spread over a two-year period and applied in three equal rests.

(2) Yes.

(3) The rent in respect to each house has been established on a fair rent basis which has had regard to the accommodation and facilities that the house provides for the tenant —that is, the reassessed rent has been set as the house now stands. Action has been taken by the Government Employees' Housing Authority to completely flyproof houses and contracts let for the work to be carried out. Where a bath heater burns out and the water supply is adequate, a hot water system is installed as a replacement. A programme is also being implemented to provide hot water systems to tenants with large families, irrespective of the condition of the existing bath heater, having regard to funds available.

### ELECTORAL ROLLS

*Legislative Assembly: Date Available*

2. Mr. DAVIES asked the Minister representing the Minister for Justice:

(1) Will electoral rolls relating to new Legislative Assembly boundaries be available before the issue of rolls in connection with 1968 elections?

(2) If so, when will the rolls be available?

Mr. COURT replied:

(1) Yes.

(2) It is anticipated that printing of the rolls for the new Legislative Assembly districts will commence about June, 1967.

### EGG MARKETING BOARD

*Commonwealth Levy: Return to Poultry Farmers*

3. Mr. EVANS asked the Minister for Agriculture:

It is competent for the Egg Marketing Board to return to poultry farmers in a particular area the whole or part of moneys collected from such farmers—pursuant to the Commonwealth legislation imposing a tax on poultry farmers?

Mr. LEWIS (for Mr. Nalder) replied:

There has been a recent amendment to the poultry industry assistance Act which may give the Minister for Agriculture power to assist producers in remote areas. Interpretation of the provisions under this amendment is at present being sought from the Minister for Primary Industry.
I will advise the honourable member when a reply is received.

### MINING

*Leases and Prospecting Areas at Chandler*

4. Mr. KELLY asked the Minister representing the Minister for Mines:

(1) What leases or prospecting areas are held at present at Chandler?

(2) What area is involved?

(3) In whose names do these holdings appear?

(4) What minerals are mentioned on the leases or prospecting areas?

Mr. BOVELL replied:

(1) (a) Mineral claims 42 and 43.
(b) Temporary Reserve 3662H.

(2) (a) 39 acres.
(b) 1,750 acres.

(3) (a) The Colonial Sugar Refining Company Limited.
(b) John Francis Roberts.

(4) (a) Mineral claims 42 and 43—gypsum.
(b) Temporary Reserve 3662H—alumite.

GOVERNMENT DEPARTMENTS AT KALGOORLIE

*Motor Vehicles: Economic Life and Replacement*

5. Mr. EVANS asked the Premier:

With reference to question 27 on the 17th November last, part (2) thereof, would he please advise—

(1) Why is there no overall policy with regard to the replacement of Government vehicles?

(2) Does the Treasury Department conduct periodic cost analysis inquiries into the economical life of a Government vehicle having regard to—

(a) the special price available to the State Government for the purchase of new vehicles;

(b) the low turnover costs and running costs of vehicles traded at accrued mileages of 25,000 or 30,000 miles or alternatively after two years' use?

(3) What is the policy of the State Housing Commission and the Department of Native Welfare as to determining what is the economical life of a vehicle belonging to it?

Mr. BRAND replied:

(1) The Government is gradually instituting a policy amongst departments that vehicles be replaced at the most economic period in their lives, which appears to be about two years or 25,000 miles.

(2) This is not undertaken by Treasury but by the individual departments.

(3) These departments determine policy from costing analysis, taking into account maintenance-free life and trade-in values.

MINING ACT

*Availability to Public*

6. Mr. MOIR asked the Premier:

(1) Is he aware that the Mining Act, 1904-1957, is "out of print" and copies are unavailable from the Government Printer and only a limited number is held by the Mines Department?

(2) As there is an increasing demand for this Act will he take action to have sufficient copies printed in order that it can again be readily available to the public?

Mr. BRAND replied:

(1) Yes. In addition to the copies available at the Mines Department, some are also held in the local mining registrar's office.

(2) A reprint has been ordered from the Government Printer and is expected to be available in January, 1967.

RAILWAY CROSSING AT RIVERVALE

*Tunnel*

7. Mr. DAVIES asked the Minister for Railways:

(1) What further progress to that detailed in the reply to question 12 of the 22nd September, 1966, has been made in regard to providing a tunnel in the vicinity of the Rivervale crossing?

(2) Is it now possible to more accurately estimate when work on the project will commence?

Mr. COURT replied:

(1) Preliminary design has commenced.

(2) It is anticipated that physical construction will commence about mid-1967.

8. *This question was withdrawn.*

## QUESTIONS (3): WITHOUT NOTICE

SUPERANNUATION AND FAMILY BENEFITS ACT

*Introduction of Amending Legislation*

1. Mr. HAWKE asked the Premier:

Has the Government any intention of introducing legislation this year to increase pensions payable under the Superannuation and Family Benefits Act to ex-Government employees?

Mr. BRAND replied:

The Leader of the Opposition gave me considerable notice of his intention to ask this question and the Under-Treasurer has prepared a reply to it, and I will hand a copy of this reply to the honourable member. The reply to the question is as follows:—

Some time ago I indicated that a review was being carried out of benefits payable under the Superannuation and Family Benefits Act and that this had been held up through delay in receiving a report from the State's actuary on the financial position of the fund.

The report is still not to hand, but apart from this aspect of the review there are other complications which are delaying a con-

clusion in the matter of improving benefits.

One of the problems which the Government faces, is to arrive at a method which results in an actual benefit to the large group of State Government pensioners who are also in receipt of a social service pension.

In many cases a rise in superannuation benefits is accompanied by a corresponding reduction in social service pensions. The result is, that the pensioner receives no increase at all in his weekly income.

The main beneficiary of an increase in State Superannuation benefits is the Commonwealth Government through a reduction in social service benefits which, as can be well imagined, does not appeal to me at all.

There is another aspect, too, which has to be considered in the interests of pensioners, and that is the effect that a rise in superannuation payments can have on the fringe benefits of a social service pensioner. I am referring here to such things as medical benefits, train and bus fare concessions, deferment of rates and other concessions of a like nature.

Even a small rise in a pension from the State would debar some pensioners from entitlement to the fringe benefits they now enjoy, because their incomes would rise to the point where a social service pension would no longer be payable and fringe benefits would also be cut out. This would be a very serious matter for those so affected.

The answer to the present situation in which the main group of State pensioners now find themselves in through rising costs is not to be found in increasing the value of the unit of pension.

The problem is to find a more satisfactory and effective way of helping former State employees, and in this respect an examination of a new method of pension adjustment recently introduced in Victoria suggests that a similar approach in Western Australia would be desirable.

Unfortunately, the Victorian scheme cannot be implemented without an examination of the record of each pensioner, and this would take some months, which rules out any possibility of an immediate adjustment of pensions.

In all the circumstances it has been decided that since it is impossible for any pension increases to be granted quickly, there would be no point in presenting Parliament with a hastily drawn Bill in the closing stages of this session.

Work will proceed to frame a suitable new approach to pension adjustments in this State with a view to introducing the necessary legislation in the early stages of the next session and I can do no more than promise this action at this stage.

I give an undertaking to introduce legislation early in the next session of Parliament.

## PENSIONERS

*Car Licenses and Third Party Insurance: Rebates*

2. Mr. BRAND (Premier): Some days ago the member for Bayswater asked a question without notice, as follows:—

> In view of the proposed 50 per cent. increase in third party insurance and the concessions allowed to pensioners on rail and bus travel, will the Government give consideration to a rebate being given to pensioners in respect of car licenses and third party insurance payments?

The reply to the question is as follows:—

> The range and extent of vehicle license concessions are being examined and, as a result, consideration will be given to the situation of pensioners.

As I am sure the honourable member knows, the third party situation is much more difficult, but we are looking at this matter at the same time.

## STATE FORESTS

*Decrease in Area*

3. Mr. GRAHAM asked the Minister for Forests:

> The annual report of the Forests Department, for 1966, shows that for the first time for more than 20 years there has been a reduction in the total area of State Forests. In my view this is a most serious matter and I ask the Minister if he can give any reasons for it, having regard for the fact that every year prior to 1966, and since 1945, there has been an increase, and in many cases, a very substantial increase, in the total area of State Forests?

Mr. BOVELL replied:

The potential for increasing the area of State Forests is, of course, decreasing. As the honourable member knows, there is only a certain area that can be dedicated as State Forests because of the growth of trees thereon.

Mr. Graham: It is 12,500 acres less than it was a year ago.

Mr. BOVELL: There is no particular reason for this that I know of, but if the honourable member likes to put the question on the notice paper I will have the position examined.

Mr. Graham: It is a little difficult now.

Mr. BOVELL: I can assure the honourable member that the matter of State Forests, and their area, is very carefully guarded and the reduction is not in any way considered to be detrimental to the operations of State Forests or the timber industry.

Mr. Graham: It would hardly be beneficial, would it?

Mr. May: Collie didn't get any of it.

## WESTERN AUSTRALIAN INSTITUTE OF TECHNOLOGY BILL

*Second Reading*

Debate resumed from an earlier stage of the sitting.

**MR. DAVIES** (Victoria Park) [4.15 p.m.]: Before the afternoon tea suspension I had indicated that while there was general agreement with the Bill the form of award was under some dispute, and also there was regret that no opportunity was being given for a staff representative to be on the council. This, I think, covers all the objections to the Bill, but there are one or two comments I would like to make at this stage, and one is in regard to the fees.

I do not see any authority granted to the council to fix fees. I notice it has all kinds of powers under the legislation. It can fix fees for examinations and so on, but, as far as I can see from my fairly limited reading of the Bill, no power is granted to the council to fix tuition fees. We will watch with interest the matter of fees, because I think we are all concerned about the steep increases in tuition and other fees associated with all forms of education. We have been very critical indeed of the increases in University fees in recent years, and probably there will be an increase in fees in the coming year.

The institute, in many respects, is being looked upon as a mini-university and therefore I think the council should have the power to fix the fees. The Minister for Housing suggested that they might be mini-fees, but I understand at present the fees charged to a student under 21 years of age are $6 a year and for students over 21 years of age the fee is roughly $42; and there are some additional charges for overseas students, I understand.

These fees are not unreasonable, but I cannot imagine that they will remain at such a low level for very long, particularly as the institute is to be charged with raising the money to enable it to carry on the specialised form of education in which it will indulge.

It will be a great pity if any of those who have the qualifications to go to the institute—or to the University for that matter—are debarred because of the high fees. However, if a student is lucky enough to gain a Commonwealth scholarship—and I understand these scholarships apply to the institute just the same as to the University—all his fees will be paid and, so far as that student is concerned, the fees can be anything at all because the Commonwealth is responsible for paying them.

The student about whom I am concerned is the one who will be paying his own way and who will have no assistance at all. I cannot see that the institute will continue to operate with fees of $6 for students under 21 years of age and $42 for students over 21 years of age.

I may be a dollar or two out in the figures I have quoted, but I believe these to be roughly the fees that are charged. So I express my concern about the future cost of education to students who will be attending this institute. I hope the council will keep its feet on the ground and the State Government will be able to be generous in the grants it makes to it; in fact, I hope it will follow the recommendations made by the Martin committee, and will obtain substantial financial assistance for the institute from the Commonwealth Government.

I also express the hope the institute will be able to raise some funds itself, but I understand this has been a bone of contention. It has been able to carry out some work for industry, which is done with the idea of assisting both the students and those engaged in industry itself, but so far the institute has not been able to charge for its services, whereas the University has been able to enjoy that advantage.

After the institute is formed it will be able to charge for such services rendered, but I cannot imagine the money obtained from the fees charged will be very great. I fear that before long the fees to be charged by this institute will be comparable with those charged by the University, yet an award granted to a student at the conclusion of a successful course will not have the same status as an award by the University. Therefore, I hope the council will watch that matter closely.

As I have said, at present no permanent appointments have been made at the institute, but the staff numbers are quite considerable. Among those employed are gardeners, cleaners, and clerical workers. I understand that most but not all of them come either from the Education Department or from the Public Service; that is, some of the clerks have been drawn from that service. When the institute is established I should imagine that these people will be given the opportunity to apply for vacancies that are advertised, or the alternative of returning to the department from whence they came; that is, to the Education Department or the Public Service.

I hope they have not been overlooked, although the Bill appears to provide that they will be granted any rights accruing to them. I hope that such a provision applies not only to the academic staff, but also to the many people who will be employed by the institute, such as cleaners, gardeners, and clerks. I would also appreciate the Minister defining the meaning of accrued rights as set out in the Bill.

When discussing the provisions of clause 29 the Minister did interpolate that accrued rights were meant to include long-service leave, and I believe they also include sick leave. I do not know whether the right of seniority has been considered, but I hardy think so, because each of these new appointments will start a new seniority line without consideration being given to length of service elsewhere—such as with the Education Department.

I understand there is some slight confusion over the meaning of accrued long-service leave; namely, does it mean that an officer who is transferred from the Education Department with accrued long-service leave will be permitted to take that leave with him; or does it mean, as provided in a Bill that was before us the other evening, that only *pro rata* long-service leave will go with him?

I should imagine that this is what it means, because if a person has three months' or six months' accrued long-service leave, naturally the department from whence that officer came would be expected to meet the cost of that leave, instead of the officer concerned taking the leave rights with him to the institute, and the institute paying for the cost of that leave without having the benefit of the employees' service.

I repeat the Bill has been greeted with general acclamation, but the members of the staff are disappointed in the form of award that is to be made by the council to successful students. I repeat, also, that members of the staff are very disappointed that there is to be no staff representation on the interim council. Further, I express here and now the hope that the fees to be eventually charged will not soar to a level beyond what could reasonably be met by any student attending that institute. Finally, some assurance should be given on the meaning of accrued rights, and the future of staff members other than academic staff. If those matters are attended to, I will be quite happy.

I thank the Minister once again for the courtesy he has extended to me in discussing this measure outside the House; and the effect of this has been to enable him to draft several proposed amendments without waste of time. I support the second reading of the Bill.

**MR. JAMIESON** (Beeloo) [4.26 p.m.]: I do not like many of these measures that are brought forward to give autonomous powers to bodies such as the one covered by this Bill, because those powers are governed by Government finances. This Bill is remarkably similar to the University of Western Australia Act, and under that Act there is practically no bar placed on the amount of money expended. The University Senate seems to think that there is available to it unlimited finances, which attitude, to some degree, causes the Treasury concern, regardless of the fact that the Treasury has a representative on the senate.

I can visualise this institute developing into another type of university, university college, or whatever one might like to call it. Even if one calls it a technological institute, for want of a better name, it will train students in the same way as the University. Despite what is said about research and studies being made outside, in effect, these will be made at the Institute of Technoloby. There will be no difference. We are only fooling ourselves if we think there will be a difference. The student who qualifies at the institute could quite conceivably be on the same footing, and on even terms in regard to every subject he studies, as his counterpart who is studying at the University.

To me it seems ridiculous, if the control of the institute is to be taken out of the hands of the Education Department in the first place, if it is not taken out for some good reason other than to give the institute a grandiose name and grant it autonomous powers. Is this move to be extended to any great degree? I notice that in the Bill there is provision for branches to be established in the country. To me, it appears that we are setting up another Education Department, under the supervision, of course, of the Director-General of Education and the Director of Technical Education. Both of those men have duties to perform on the University Senate and, when this Bill is passed, they will have some responsibility on the body controlling this organisation.

Why should we attempt further to complicate their lives? Either they have some direct authority over scholastic activities,

or they do not. If we raise the status of an officer from that of Director of Education to Director-General of Education, why should we seek to add to his responsibilities those he will be obliged to assume in a lesser entity such as this; because, under the Bill, he will become a member of the board of control? I suggest we are granting authority to this organisation far beyond that which is required. Perhaps we could meet the situation by appointing a local advisory committee, but to appoint a body such as this and give it powers which will enable it to make laws within the confines of its perimeter, seems to me to be quite unnecessary. There is no need to give this body autonomous powers when, in the main, the funds have to be found by the Government of the day.

Therefore, I can only repeat the Bill seems to go far beyond the requirements that are needed for a body such as this. We want to increase the general educational standard in the community, and not appoint autonomous bodies, regardless of whether they are controlling the Muresk Agricultural College, a technological institute, or a school of mines.

We are breaking these things into a thousand and one administrative tasks, whereas they could all be concentrated in the Education Department as they should be, with a view to giving the highest degree of education possible to the greatest number of people. We should not break up this education system into these various sections.

The member for Victoria Park indicated that we could be faced with a situation where the fees for this college would be as high as the University fees. I see that there is also provision made for a boarding college at the site, with facilities such as apply now at the University. If we are to go to that extent, we may as well call this a university. We should not permit these people to finish up with a lesser degree; nor should we give control to an autonomous board whose autonomy will probably be confined to the spending of finance. I daresay that there will be a certain amount of Government control, because the Government will have the right to appoint the members of the council under the provisions laid down in clause 9.

I suggest that we watch very carefully how far we go with this sort of thing. We could get to the stage of having the Bentley High School run by a board; we could adopt the procedure used in the United States and have the Leederville Technical School run by a board. This will mean that the education system will go to pieces. I am not satisfied that we should set up an autonomous board to run this institution. We should place it within the Education Department to enable us to get the maximum of education at the minimum of cost.

**MR. LEWIS** (Moore—Minister for Education) [4.33 p.m.]: I want to thank the member for Victoria Park for his co-operation and general support of the Bill. At the same time I regret that the member for Beeloo has not given the subject the same enlightened research as his colleague the member for Victoria Park. Running through the commentary of the member for Beeloo is the thought that this should be just another Education Department institution.

The Bill has not been sponsored by the Government or the Minister for Education without some research having been made into the principle under which this institution should be run. It is only as a result of setting up this tertiary education committee to deal with this and other matters—such as a second university, and so on, and where it shall be established—that the committee has produced a report which recommends very strongly that this should be an autonomous institution.

This thought is in keeping with the general trend throughout the Commonwealth of Australia; that tertiary institutions should be divorced from departmental control.

Mr. Jamieson: It will not make the fees any cheaper.

Mr. LEWIS: I take it that the member for Beeloo would support a proposal for the University of W.A. to be taken over by the Education Department.

Mr. Jamieson: It should be part and parcel of it.

Mr. LEWIS: It is part and parcel of the general education system. I do not think too many people will support the member for Beeloo in advocating that the University of Western Australia should come within the general administrative control of the Education Department. This is not a second university. I want to make that quite clear. It is a tertiary technical institute, if members would like to call it that.

Mr. Jamieson: You have copied the University Act.

Mr. LEWIS: This institute is between the level of a technical school, which is subtertiary, and the University itself. It is not a university, and will not carry out the functions of a university which, in great part, deals with research. This institution will not deal with research. It is a tertiary technical institution where the application of research is given the most emphasis.

Some reference has been made to the fees. Let me say here—and the member for Victoria Park also mentioned this—that I hope the fees will not be so great that we will price students out of this means of advanced learning. The Bill contains a provision that the annual estimates of receipt and expenditure must be approved by the Minister. In addition,

of course, we have a representative of the Treasury on the council—on both the interim and the permanent council.

Mr. Jamieson: You have that with the University.

Mr. LEWIS: I know we have. The Minister for Education has no jurisdiction over the fees at the University; nor does he have anything to do with the annual receipts and expenditure.

Mr. Davies: Does the Minister have any authority over the salaries at the University?

Mr. LEWIS: No.

Mr. Davies: But you will in this case.

Mr. LEWIS: Yes.

Mr. Hawke: Does the Government have any control?

Mr. LEWIS: I would say so, because the University depends on the Government for finance.

Mr. Brand: We finish up paying them, but we do not have much say.

Mr. LEWIS: The member for Victoria Park mentioned some unrest or uncertainty in the minds of the staff as to their future. I would like to point out that this also lies with the department. At the moment the institute is staffed with personnel from the Perth Technical College. They are under another roof. That is what it amounts to at the moment. The Deputy Principal of the Perth Technical College has his office and administrative headquarters at the new institute, and this is how things will remain until the new principal—or whatever title he is given by the interim council—is appointed. The staff will be responsible to, and are members of, the Education Department at present.

It will be one of the early functions of the interim council to fill the key posts. When these posts are filled then such staff as may be engaged will be responsible, of course, to the new principal, or to the new head of the institute of technology—I do not know whether he will be called a principal or a director, but that does not matter very much.

The member for Victoria Park referred to the desirability to award associateships. This has received very great and considered attention by the tertiary education committee, and I think the Bill refers to awards of appropriate diplomas and certificates. I am told the term "certificates" will include anything from degrees down to diplomas and associateships. I have not looked up the dictionary definition; though I am told the tertiary education committee did, and it found that the general term "certificates" will include associateships or any awards that this council may decide to grant.

The member for Victoria Park can rest assured on that score. It is not desired at this stage to specify that the institute shall award degrees, and it is intended to make it quite clear that this is not to be a second university. Therefore at this point of time it is not contemplated that degrees will be awarded.

This being an autonomous institution, with the changes that are being made and will be made in the coming years, who knows what the thinking might be in 10 years time? But there is no thought at the present time of awarding degrees.

Concern was expressed by the member for Victoria Park that the staff will not be represented on the interim council. Of course, the Bill provides that when the permanent council is set up—this should be about the end of 1968, because the Bill provides the interim council shall be constituted for not less than two years and not more than two years and three months—it will come into operation from the beginning of 1969; and, as from that date, the staff, which by that time we can assume will have been appointed by the interim council, will be represented on the permanent council.

The member for Victoria Park was concerned over the lack of staff representation on the interim council, but I would point out that until the personnel become members of the staff they have no voice on the interim council.

Mr. Jamieson: There are no staff.

Mr. LEWIS: That is the situation. At the present—as has been the position in the past and will be in the future—the staff are free to make representations on any matters related to their conditions of employment directly to the principal of the college. At present the Deputy Principal of the Perth Technical College is in charge of the institute, and the staff have every right to make representations to him. Having been Minister for Education for a number of years, I have no doubt that any reasonable representations they make will be given effect to; and that has been the case since I have been Minister for Education. The staff need have no real worries in that regard.

Another point mentioned by the member for Victoria Park related to accrued rights. The Bill provides that any person appointed shall be deemed to have retained his accrued rights, and, in particular, his rights, if any, under the Superannuation and Family Benefits Act. That Act has been referred to in the Bill, which contains a provision to impose an obligation on the new council to seek to become a department for the purposes of the Superannuation and Family Benefits Act.

In regard to other accrued rights, such as sick leave, I am informed they will carry over to the new institute. As to long service leave, the term "accrued rights" is placed in the Bill deliberately. In almost every instance the Bill has em-

bodied the recommendations of the Tertiary Education Committee. Since the Bill is designed to set up an autonomous institute, it provides that any rights accrued up to the time of appointment to this institute will be retained in the case of those who have been officers of the Public Service of this State or officers appointed under the Education Act.

Accrued rights to sick leave will be honoured in the new institute; that is to say, if a teacher has 100 days of accrued rights, those days will be credited to him in the new institution. As to long service leave accruement, the full period will be paid for either by the department the officer is leaving, or by the new institute, which will be reimbursed by the department he is leaving. Long service leave will not accrue; in other words, the new institute will have power to make its own arrangements. In the University it is regarded as sabbatical leave, and the University makes its own arrangements.

The interim council, in the first instance, will promulgate Statutes, and these Statutes are required to be tabled in Parliament and to run the gamut of amendment or rejection. These Statutes will provide for the long service leave, or its equivalent, which the new institute might care to grant. It is not desired to bind the new institute as to what it can do in his respect.

I mentioned in my introductory speech that this was, to use a rural phrase, ploughing new ground in education, and particularly technical education, in this State. We have great hopes this Bill will be the means of promoting the standard of education; and since the Martin report other committees have laid great stress on the step to be taken in this direction.

The Martin committee recommended very strongly to the Commonwealth that each teachers' training college should be an autonomous institution, as it felt that the inbreeding of officers within the department did not make for the best standard of education. We should keep the interim council and the permanent council free to make appointments of the most capable officers.

Mr. Jamieson: One problem about these committees is that they are not called upon to foot the bill.

Mr. Brand: There is no problem so long as we get value for money, and I believe we will.

Mr. LEWIS: The institute will be given the chance to get value for the money. If we are to aim at a higher standard of education then we have to be prepared to pay a reasonable price for it. If we pay third-rate salaries we will not be able to guarantee to get even third-rate lecturers.

Mr. Jamieson: No-one has suggested that third-rate salaries should be paid. That is your suggestion.

Mr. LEWIS: I am not suggesting that we should pay third-rate salaries.

Mr. Jamieson: You did.

Mr. LEWIS: I am suggesting we leave the council free to appoint the best officers possible with the finance available, in the main, from the Treasury. There is little else I can add. I again thank the member for Victoria Park for his contribution. We did have some discussion on various aspects of the Bill, and there are some amendments I have placed on the notice paper to clarify one or two points. I commend the Bill to the House.

Question put and passed.

Bill read a second time.

*In Committee*

The Chairman of Committees (Mr. W. A. Manning) in the Chair; Mr. Lewis (Minister for Education) in charge of the Bill.

Clauses 1 to 6 put and passed.

Clause 7: Functions of the Institute—

Mr. DAVIES: The Minister said that the word "certificates" included associateships or degrees and that the council would eventually decide what form the award would take that would be made to successful students.

Since it should not be ncessary to refer to *Hansard* to find out what is the intent of a Bill, I suggest that the words "associateships, degrees, or certificates" be mentioned in the paragraph.

Mr. Lewis: Cut out degrees and I will be with you.

Mr. DAVIES: All right. I move an amendment—

> Page 4, line 25—Insert after the word "diplomas" the word "associateships".

Mr. LEWIS: I have no objection to this amendment, although I do not think it is necessary. However, if the Committee feels the amendment will make the position doubly sure, then I will go along with it.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 8 to 16 put and passed.

Clause 17: Power of Council to appoint and dismiss staff—

Mr. LEWIS: I move an amendment—

> Page 9, line 32—Insert after the word "and" where first appearing, the words "any such appointment shall be".

This amendment will make the position clear that the Minister is only qualified to approve of appointments and that he has nothing to do with suspensions or dismissals of staff. As the clause reads at the moment it could be construed that the

Minister's approval is necessary to suspend or dismiss staff.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 18: Power to award diplomas, etc.—

Mr. DAVIES: I move an amendment—

Page 10, line 3—Insert after the word "diplomas" the word "associateships".

This is a consequential amendment to one previously accepted by the Committee.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 19 to 26 put and passed.

Clause 27: Governor to be Visitor—

Mr. DAVIES: As I have not been able to find anyone who can describe to me the meaning of the word "visitor," can the Minister enlighten the Committee on this point?

Mr. LEWIS: This is an unusual provision to have in a Bill of this kind, but I am told that the expression is used in University of Western Australia Act. I understand it is a term that dates back a long time when official visitors were appointed to various charitable institutions. The visitor was given the right to visit those institutions at any time without invitation and make complaints to the appropriate quarter as to the treatment being meted out, and so on.

In this case the Governor is the visitor; and I would point out that he has taken a very keen interest in this institute. I hope future Governors will also take an interest in it. He will be welcome at all times to criticise, should he wish to do so. I am told that although the Tertiary Education Committee did not make any reference to this appointment, it is more or less a status provision. I do not think it does any harm.

Mr. W. Hegney: It does not do any good, either.

Mr. LEWIS: I am quite easy on the matter, but I suggest that the member for Victoria Park should not press the point.

Mr. DAVIES: I was merely seeking enlightenment as to the meaning of the term, and I thank the Minister for the information.

Clause put and passed.

Clauses 28 to 34 put and passed.

Clause 35: Statutes to be approved by Governor and published—

Mr. DAVIES: Subclause (3) of this clause refers to 30 days. Under the Interpretation Act, section 36, objections to regulations can be made within 14 sitting days. As the Interpretation Act overrides every other Act, would it not be better to include 14 sitting days here so that there will be no clash between the two Acts?

Mr. LEWIS: I have no objection to this suggestion, especially as subclause (2) refers to 14 sitting days.

Mr. DAVIES: As the Minister has no objection, I move an amendment—

Page 19, line 26—Delete the word "thirty" and substitute the words "fourteen sitting".

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 36 and 37 put and passed.

Clause 38: Constitution of Interim Council—

Mr. DAVIES: I wish to make one final protest about the fact that no staff representative is to be appointed to this council. Under the Bill, no chief executive officer is to be appointed either, but the Minister has an amendment on the notice paper which provides for a person to be appointed to the committee as a nominee of the chief executive officer. As the problem has been overcome in connection with the chief executive officer, I cannot see why it is not possible to overcome the difficulty in regard to a staff representative.

It is unfair to both the deputy principal and the members that submissions of the staff will be made to the interim council through the deputy principal. After all, he is human and he will submit what he feels should be submitted to the council. I could name a half a dozen men at least who would be guaranteed appointment.

Mr. Lewis: I would not make any bets on it.

Mr. DAVIES: We must remember that the ultimate council which will be established after the first two years will have the responsibility of running the institute. I am glad that the council will run the institute and that it will be autonomous, and I very much like the idea that the staff will be represented on the council eventually; but I very much regret the fact that the staff will have no representation on the interim council—even if this representation were not accompanied by the right to vote.

Mr. LEWIS: I have discussed this matter with the member for Victoria Park and I am in sympathy with his view. It would be in the mutual interests of the institute, the council, the staff, and the students themselves to maintain harmonious and co-operative relationships. This applies to all educational institutions. However, my difficulty is that to appoint one or more representatives of the staff now would virtually have the effect of the Minister appointing one or more members of the staff; and this would give any person so appointed an advantage over others. It could create friction amongst staff members. The member for Victoria Park made

the point that perhaps the appointment of the interim council could be deferred.

I would like to have further time to examine the particular point and I will do this. If necessary, an amendment can be made in another place. I am in sympathy with what the honourable member has said, but I want to see that the scales are not loaded one way or the other. I move an amendment—

> Page 20, line 32—Insert after the word "Australia" the following passage:—", but until a person is appointed to be the chief executive officer of the Institute, a person nominated in writing by the Minister shall be a member of the Interim Council in place of the first mentioned person."

There cannot be a chief executive officer, because the Bill elsewhere provides that the chief executive officer is to be appointed by the interim council. The amendment will get around this difficulty. Until the appointment is made by the interim council, the person acting as chief executive officer shall be one nominated by the Minister, and shall hold office until the appointment is made by the interim council.

Mr. DAVIES: I am pleased the Minister will give further consideration to the appointment of a staff member to the interim council. However, I feel that the Minister is doing just what he said would happen if my suggestion had been accepted. That is, the Minister is placing a man on the interim council who will have a say as to who the chief executive officer shall be. Surely that man must have some advantage.

Mr. Lewis: That will not matter, and he will not be representing the staff.

Mr. DAVIES: I am not complaining, because no doubt the man has already been picked out. I do not know whether that is true; but it is obvious that the person who will sneak in under this amendment will have an advantage over any other person.

Apparently this matter was overlooked in the drafting of the Bill, but the amendment will overcome the difficulty.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 39 to 41 put and passed.

Clause 42: Term of office of Members of Interim Council—

Mr. DAVIES: I would like a direction, Mr. Chairman, regarding a clause we have already passed. In clause 18 we should have added the word "associate." How can we overcome this problem?

The CHAIRMAN: If the Minister agrees, you can move to recommit the Bill.

Mr. LEWIS: The point raised by the member for Victoria Park is consistent with something we have already done, and I will have the word inserted in another place to save time.

Clause put and passed.

Clause 43 put and passed.

Schedule put and passed.

Title put and passed.

*Report*

Bill reported, with amendments, and the report adopted.

## BILLS (4): RETURNED

1. Public Service Arbitration Bill.
2. Public Service Appeal Board Act Amendment Bill.

   Bills returned from the Council without amendment.
3. Public Service Act Amendment Bill.

   Bill returned from the Council with an amendment.
4. Industrial Arbitration Act Amendment Bill (No. 2).

   Bill returned from the Council without amendment.

## LOAN BILL

*Message: Appropriations*

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

*Second Reading*

**MR. BRAND** (Greenough—Treasurer) [5.24 p.m.]: I move—

> That the Bill be now read a second time.

This Bill is similar to the one passed in every session about this time. It is true it is a formal measure and it simply authorises the raising of $48,977,000 by loan for the construction of certain public works and for other purposes. These works have been referred to in the speech I made some time ago on the Loan Estimates which we have yet to consider. The Bill is in no way tied to the passing of the Loan Estimates, but in another place it does become the subject for such general debate as the members desire to give to it, and it is for this purpose I have introduced the measure at this stage.

**MR. HAWKE** (Northam—Leader of the Opposition) [5.25 p.m.]: I have had a careful look at the title of the Bill. It is the normal type of Loan Bill introduced towards the end of every parliamentary session. It seeks from Parliament authority for the raising of $48,977,000 by loan for the construction of certain public works, and for other purposes.

The schedule in the Bill covers the main details, and they are the more important items of expenditure proposed by

the Government. It is true the Loan Estimates have not yet been debated in this House. Normally it would be my view that the Loan Estimates should be debated and approved by members here before a Loan Bill authorising the raising of money was approved. However, it can be taken for granted, with confidence, the Loan Estimates will be approved within the next few days at the latest.

The Treasurer has indicated the Legislative Council is waiting for important Bills to come forward. Members in another place do not have the opportunity to discuss or debate the Estimates in the form they appear before us in this House, and therefore they engage in debate on the loan programme of the Government when this Loan Bill comes before them. Clearly, therefore, there is justification for the passing of this Loan Bill in this House at this time, even though, up until now, members here have not debated the detailed Loan Estimates. I hope the Bill will not be returned to us from the Legislative Council until we have completed our consideration of the detailed Loan Estimates. I support the second reading.

Question put and passed.

Bill read a second time.

*In Committee, etc.*

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

*Third Reading*

Bill read a third time, on motion by Mr. Brand (Treasurer), and transmitted to the Council.

## BETTING INVESTMENT TAX ACT AMENDMENT BILL

*Second Reading*

Debate resumed from the 23rd November.

**MR. HAWKE** (Northam—Leader of the Opposition) [5.31 p.m.]: There is a great deal of poetic justice in the fact of the Government being impelled or compelled to introduce this Bill into this House at this time. The necessity for its introduction is financial in character. The legal reason for the introduction of the Bill is the existence of a deficiency in the amending Bill which was passed last year.

On that occasion the Bill introduced by the Government altered the rate of betting tax on each betting ticket issued by the Totalisator Agency Board, or by any licensed bookmaker operating under the authority issued by that board. Prior to last year's amending Bill being approved by Parliament there were two rates of betting investment tax.

The first was a tax of 3d. in the old currency terms on each betting ticket having a face value of £1 or less; and the second rate was a tax of 6d. on every betting ticket having a face value of over £1. In other words, the smaller punters were taxed at a lower figure than were the larger punters.

The Bill brought down last session abolished both those rates of tax, and in accordance with the change from the old currency to decimal currency it applied a new uniform tax of 3c on every betting ticket issued. Obviously the amending Bill brought down by the Government last session increased the tax on the smaller punters and reduced the rate of tax quite substantially on a percentage basis on the bigger punters. The tax on the smaller bets went up from 3d. to 3c, while the tax on the larger bets came down from 6d. to 3c.

At that time I very strongly criticised the Government's proposal, because it appeared to me then as it appears to me now the Government did not have the slightest justification for reducing the rate of tax on the larger bettors. The events which have taken place during this session of Parliament have abundantly justified all the criticism which was uttered by me last year in connection with the amending Bill.

In recent weeks we have been inundated with Bills in this House to increase taxes, duties, and so on; yet last year the Government reduced the rate of tax upon those people in the community who wager in amounts of more than £1 on horseracing or on trotting with the T.A.B., or with licensed bookmakers under authority from the T.A.B. One would have thought the Government during this session would have brought down legislation to raise some additional revenue under this betting investment tax. However, we have not seen any such legislation, but instead we saw legislation to increase the stamp duty tax very severely.

We have seen legislation to increase the death duty tax in some fields; a Bill to increase the tax on unimproved land values; and a Bill to take away from the Lotteries Commission a large proportion of its total income, as well as some of its liabilities; yet no legislation has been introduced to raise additional money from the betting investment tax, even though last year the Government reduced the burden of this tax on the bigger punters in the community.

Because the Bill introduced last year had a deficiency to which I referred earlier, the T.A.B. has been illegally collecting this tax on all betting investments made with it. Last year's Bill was so worded as to make it legal for this tax to be collected only from the licensed and authorised bookmakers. It did not make it legal, because of the deficiency, to collect the tax from investments with the T.A.B.

Clearly most of the betting investments would be made with the board or with its agencies, so the Government is naturally

anxious on this occasion to make legal that which has been done illegally. I am intrigued with the thought as to what would happen if the Bill before us did not find approval in Parliament.

Mr. Brand: We always run that risk.

Mr. HAWKE: I am not discussing this point so much from the angle of the risk which is taken with any Bill that is introduced; I am discussing it from the angle of what would happen to all the money which has been collected illegally. I think some difficulty would be experienced in refunding it to the individual punters who have had thousands of bets with the T.A.B. or its agencies from the 14th February of this year. I assume from that date tens of thousands of such bets have been made.

However, I have no doubt the Treasurer has tested out this proposal at a joint party meeting of Liberal and Country Party members of both Houses, and doubtless he has received unanimous endorsement from those members for the introduction of the Bill; therefore, it is certain the Bill will receive a majority vote in each House of Parliament.

I have no objection to the Bill. The tax was intended to be imposed upon betting investments made with the T.A.B. or with its agencies. Everyone was under the impression the Bill last year would legally achieve all the Government had set out to achieve; and, in any event, this type of tax is thoroughly justified. Therefore it would be wrong to create any upset in regard to the legal collection of the tax, and for that reason the retrospective provision in the Bill does not get any opposition from me.

I did by interjection indicate the Government had made some assault on the principle of retrospectivity. Only yesterday or the day before we on this side of the House tried to sustain and continue the principle of retrospectivity in relation to the salaries and allowances of members of the Public Service. On that occasion the Premier, backed 100 per cent. by his supporters, defeated the members on this side of the House. The argument from the Government side was retrospectivity was out, and the Government would not have anything more to do with it. It contended retrospectivity was not a fair or reasonable proposition, and was bad in principle.

Those were the contentions submitted by the Premier on behalf of the Government only 36 or 48 hours ago. Of course now the situation is vastly changed from the Government's point of view. The Government submits a Bill containing a retrospective provision. For my part, I am going to be consistent. I argued in favour of the retrospective provision for the Public Service arbitrator, and I am going to argue in favour again of the principle this time, and therefore I support both the provisions in this Bill.

**MR. BRAND** (Greenough—Treasurer) [5.46 p.m.]: I would like to thank the Leader of the Opposition for his support of this measure. Clearly it is simply making legal something which this House intended should be legal. The charges to be applied have already been decided upon. I appreciate the point of view expressed by the Leader of the Opposition. I have no great sympathy for betting, but this is the Act as it stands now, and I commend the Bill to the House.

Question put and passed.

Bill read a second time.

*In Committee, etc.*

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

*Third Reading*

Bill read a third time, on motion by Mr. Brand (Treasurer), and transmitted to the Council.

## AUDIT ACT AMENDMENT BILL

*Second Reading*

Debate resumed from the 23rd November.

**MR. HAWKE** (Northam—Leader of the Opposition) [5.49 p.m.]: This Bill deals with the salary to be paid to the Auditor-General. In the present law the provision is that the salary per annum shall be not less than £2,000. The proposal in this Bill is that the salary per annum shall be not less than $11,650. It goes on to state the Governor shall be the authority who will declare the actual salary from time to time.

Under the present law provision is made for basic wage variations to be added to the salary of the Auditor-General. This Bill proposes to delete that provision from the law. I have no objection to the Bill.

Question put and passed.

Bill read a second time.

*In Committee, etc.*

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

*Third Reading*

Bill read a third time, on motion by Mr. Brand (Treasurer), and transmitted to the Council.

## TRAFFIC ACT AMENDMENT BILL (No. 2)

*Second Reading*

Debate resumed from the 23rd November.

**MR. GRAHAM** (Balcatta) [5.52 p.m.]: This Bill is more notable for its omissions than for what it contains. I am wondering, for instance, what has happened at

Cabinet level in respect of the report and recommendations concerning a single traffic authority for the State.

Mr. Brand: Still doing battle over it and discussing it.

Mr. GRAHAM: I thought it would have received a reasonably high priority. I imagine there would be a certain amount of controversy in connection with it—

Mr. Brand: That is right.

Mr. GRAHAM: —and because of that, if this Government intended to do anything about it, it would have introduced the legislation this session. I hazard a guess there will be no prospect whatever of a Bill to effect that reform being introduced in the next, pre-election, session of Parliament. I think the Government, having gone to the trouble of having an extensive inquiry and report made to it, had, to a very large extent, an obligation to bring the matter before Parliament in order that Parliament might make a determination on the question.

Mr. Brand: There is little value unless we can have this matter decided and can get the necessary backing.

Mr. GRAHAM: Who am I to give an undertaking in respect of backing for the Government if the Government itself has not the courage to produce a Bill?

Mr. Brand: That is right.

Mr. GRAHAM: However, more of that anon. I was hoping, too, that when the Minister gave notice of the intention to introduce the Bill, at long last there would be produced that which was promised and which I requested—this was many years ago when I was Minister. I requested that action should be taken to streamline and simplify the Traffic Act and the regulations, but instead of that, the Act is being amended, and in the process is being extended.

The Act already covers 128 pages and the great bulk of it is expected to be known and understood by the motorist. The traffic regulations are in a volume which is even more voluminous than is the Statute. Accordingly it becomes absolutely impossible for a motorist to be familiar with all of the things with which he must be, unless he runs the risk of incurring the displeasure of the law.

Mr. Craig: You are completely off beam on that one. Since the Road Traffic Code was issued, it is available to the motorist, and that covers the regulations which refer to road traffic only and does not include anything affecting taxis, buses, and so on.

Mr. GRAHAM: This Act I hold in my hand is the document under which people are prosecuted.

Mr. Craig: That is the Act.

Mr. GRAHAM: Yes. Therefore it is essential to know the requirements of the Act. A handy guide is a different matter entirely. I refuse to believe that what is necessary in respect of persons and vehicles who use the highways and byways is a volume as bulky as this one; and I feel something far more simple could be produced. However, it has not been done now, although I had hoped it would be. In connection with the Bill itself, the Minister gave a reasonable outline—

Mr. Craig: Oh, thank you.

Mr. GRAHAM: —of the reasons for the various amendments which the Government seeks to make. The Minister rushed in with his thanks. I would point out, however, that the very first clause in the Bill received no mention whatever and what the Government seeks to do under it is something I cannot understand.

At present there is provision that if a person drives a vehicle in respect of which he has not taken out a license, then he shall be subject to certain fines—minimum and maximum—and in addition he shall have his license suspended for a period of 12 months. If a vehicle is not licensed, there is, of course, no third party insurance cover, and accordingly, if the person driving that vehicle unfortunately causes an injury or death to someone else then there is no possibility whatever in very many cases of the dependants of the maimed person receiving a penny.

Without giving any reason whatever, the Minister seeks to delete that provision relating to the suspension of the driver's license in the absence of the vehicle license and the consequent non-cover for third party insurance.

I am pleased the Minister is taking some action with regard to the renewal of a driver's license. The present cumbersome system arose, I well recall, from the system which was employed in the Police Traffic Branch; but, in respect of renewals, it was only at certain periods that a 12-month license could be taken out. I think the stage was reached when a person had to take out a six-month license even though he wanted one for a longer period. It appears that the more that office becomes mechanised, the more it becomes convenient for the public; and that, of course, is all to the good.

I notice, too, that the Minister seeks to simplify matters in respect of traffic in that a nominal license fee, although that is hardly the correct term, will be levied instead of the variations applying at the moment; and this is to cover tractors which for the overwhelming part of the time are used on farms but which are required to cross or use a road when moving from one part of a farm to another. If only this nominal sum is paid in, what is the position regarding third party insurance?

Mr. Craig: They will be covered by third party insurance.

Mr. GRAHAM: I am pleased to hear the Minister say that. That was one of the queries which I had in my mind.

I have already expressed my surprise—and shall I say my pleasure, too, which I now express—at the information given to us by the Minister that country local authorities have agreed to forgo 50 per cent. of the transfer fees, and that this 50 per cent. is to go into a State-wide railway crossing fund. Up to now, this fund has applied in the metropolitan area only; and, to be perfectly frank, at the time I introduced it, I was a little afraid of the country councils and therefore when the 10s. fee, as it then was, increased to £1, the country local authorities received their extra 10s., but the metropolitan local authorities stayed as they were—that additional 10s. went into the Metropolitan Railway Crossing Fund.

If I have read the Bill aright, I notice, too, that the Main Roads Department will be required to make a like contribution to the fund. In point of fact, every one dollar which will be placed in the fund by the local authority will become two dollars because of this formula.

The existing Metropolitan Railway Crossing Fund, about which I have spoken on other occasions, has not, in my mind been effectively used. No doubt it would show a reasonably substantial credit at the present moment. In all fairness, instead of this amount going into the general fund, I think it is money which properly belongs to the metropolitan local authorities.

I think we should start off *de novo* with the transfer fees in all parts of the State going into a fund matched dollar for dollar by the contributions of the Main Roads Department. However, there is money which belongs exclusively to the metropolitan area—money which belongs to the Metropolitan Railway Crossing Fund or, in its absence, to the local authorities in the metropolitan area. Yet, hereafter the money will be in a pool, and level crossings—wherever they might be—will be upgraded from the common pool. However, I do not anticipate the Government will follow my suggestion in the matter, because, apart from all other factors, of the lateness of the hour.

I am pleased that a case which I represented to the Minister a couple of years ago has been taken into consideration. That case was of a person who, in another State, had been the driver of a vehicle for a couple of years before he came to Western Australia, and because he had not already had a driver's license for three years in that State, he was required to take out a new license with the probationary restriction. He encountered a comparatively minor breach of the law and, because of that, his driver's license was automatically cancelled for a period.

The Minister now proposes that there shall be official recognition of a license which is taken out in any part of the Commonwealth. I think that is fair and reasonable.

I would ask the Minister to have a look at clause 14. The Bill itself does not tell us anything about it but, whereas the Act at the present moment refers to subsections (3) and (4), I think the Minister wants it to refer to subsections (3) and (5). I am wondering whether the reference should not be to subsections (3), (4), and (5). I just mention that now so that the Minister could perhaps check it now, or have it checked later on.

A member who sits on this side of the House was a little concerned about clause 15, which provides—

> (3) In any prosecution under this Act or the regulations, an averment in the complaint that an offence was committed within the district of a local authority therein specified shall be deemed to be proved in the absence of proof to the contrary.

I checked with the Police Traffic Branch today and I was informed there was no change whatsoever in the current situation. In other words if the police officer states the traffic offence has occurred in a certain locality, his statement is accepted. However, it would appear there are magistrates here and there round about this State who have been causing a little difficulty to local authorities by requiring them to prepare plans. Therefore, whilst this does mean an amendment to the law, in point of fact it will make scarcely any difference whatsoever to the procedure which is almost universally adopted. With those remarks, I support the second reading of this Bill.

MR. EVANS (Kalgoorlie) [6.6 p.m.]: I thank you for your indulgence, Mr. Speaker, in allowing me to speak after the Minister for Police had risen to his feet. I only wish to make two brief comments about this measure. One is to commend one feature of it, and the other is to criticise it on the last point mentioned by the member for Balcatta. I thank the Minister for having the matter raised with, I believe, the body representing the various shire councils in this State. I understand the member for Murchison brought this matter to his attention and I did, also.

I refer to that provision of the Act which, in a strange way, provides that where a person is found to have driven a motor vehicle without the necessary license for that vehicle, such person, if convicted, and the court, in convicting, does not make an order to the contrary, shall be barred from holding a vehicle license.

Mr. Craig: A driver's license.

Mr. EVANS: Yes, a driver's license. The effect of this provision has been quite severe. For example, a cartage contractor or someone owning a fleet of vehicles might, through some momentary lapse of

thought when driving his own private car, find himself two or three days beyond the time when he should have relicensed the vehicle. This omission is then picked up by some over-zealous traffic inspector; the matter is taken to court; and the person is fined.

In one particular case, I am told the magistrate, when looking back in retrospect, wished the effect which flowed from the conviction had not happened; but he did not make an order to the contrary, with the result that the person concerned lost his right to hold a license—not only for his own private car, but for all the trucks he had in his fleet. Therefore, he was put out of business for the time being and it caused him a great deal of harm.

I feel that this provision which exists now is pernicious and pin-pricking when cases such as that can arise. I consider the amendment is desirable, because no-one condones the use of vehicles on a road if the necessary license is not in order. However, as I understand it, the provision now is to operate so that when such a person as the one I have instanced is brought before the court, he will not automatically lose the right to have a fleet license unless the court specifically orders so. I consider this is a more practical, a more creditable, a more humane, and a more common-sense procedure to adopt, and I commend the Minister for having done just that.

The other amendment is a provision to section 69 and provides that where any complaint is brought by a traffic inspector —and I use that term to include the Commissioner of Police in the metropolitan area—and an averment is made in the complaint that such and such an offence happened within the licensing area, that is to be *prima facie* truth of the proof of the averment unless proof to the contrary can be shown.

I consider this is a dangerous precedent to follow. Of course, there is a precedent for it—there are quite a few of them. Nevertheless, I consider it is a dangerous one to follow, particularly in country areas where traffic inspectors are often not qualified. Although I say it is generally a dangerous precedent to follow, I am speaking with particular reference to traffic inspectors in country districts, because of the fact that they are often not qualified.

A provision such as this will only act as an inducement leading to incompetence, and perhaps a slipshod manner of presenting a case in court. There have been instances where a traffic inspector has brought a case forward and has failed, in presenting his case, firstly to show that the alleged offence did occur within the jurisdiction of the local authority employing him, and, secondly—and in some cases in both instances—to produce his own authority to act as a traffic inspector.

I consider the law as it stands now does at least make sure that the traffic inspector rightly brings his case to court and is wide awake to the situation. The law should require him to be able to prove that he has the authority to prosecute as a traffic inspector employed by a given local authority; and, in the case of pinpointing the jurisdiction to prosecute, he should be required to bring with him a map which shows the boundaries of the local authority concerned, and he should be able to show that the alleged offence did occur within such boundaries.

When introducing the Bill, the Minister did mention the expense and inconvenience which is caused through the requirements of the law at the present time inasmuch as local authorities have been put to the expense of producing maps. I cannot see this point at all. As far as the country districts are concerned, anyway, the boundaries of local authorities have not changed to any great extent for many years.

Therefore, I cannot see the justification for the claim that local authorities have been put to the expense of preparing maps. As far as I know the situation in Kalgoorlie, at least, is that the maps which are being used by traffic inspectors are the ones that they have been using for some years. As I have said, I consider this is a dangerous precedent to follow and therefore, I strongly oppose this aspect.

**MR. CRAIG** (Toodyay—Minister for Traffic) [6.13 p.m.]: I thank the member for Balcatta and the member for Kalgoorlie for their contributions to this measure. As I said on its introduction, I did not feel it was going to be contentious to any extent and this has been proved by the comments which have been forthcoming from both the members referred to; except that the member for Kalgoorlie doubts the value of the particular clause of the Bill which relates to the proof of the boundaries or the proof of the locality where the offence took place.

I might say that this clause has been included in the Bill at the request of the local authorities, because of the expense with which they were involved when they were required to provide proof by way of certified maps of the particular locality.

It was stated when this measure was introduced that the amendment is proposed on the basis that an offence which takes place in a specified local authority shall be deemed to be proved in the absence of proof to the contrary. In other words, this reverses the position. The local authority is not required to secure these expensive maps which are certified by the Surveyor-General. The member for Balcatta quite rightly drew attention to the fact that it is, possibly, the attitude of one or two magistrates who have requested this proof that has brought about this amendment. Therefore, as I have said, the position is reversed to the extent that in the absence of proof to the contrary, the

certified maps are not required. I feel this provision does meet the request made by the country shires.

Question put and passed.

Bill read a second time.

*Sitting suspended from 6.16 to 7.30 p.m.*

*In Committee*

The Chairman of Committees (Mr. W. A. Manning) in the Chair; Mr. Craig (Minister for Traffic) in charge of the Bill.

Clause 1: Short title and citation—

Mr. CRAIG: I did not have the opportunity to reply to the member for Balcatta before tea, but I will do so now. The honourable member suggested it would have been more beneficial if the Act had been streamlined. He implied that no effort had been made to do this. I tried to correct this by interjection.

For the information of members there has been a complete overhaul of the Traffic Act which has taken some time. I have been Minister for five years, and if members can recall the condition of the Act five years ago, they will see that considerable progress has been made. I remember the first amendment I introduced into the Traffic Act when there were only two up-to-date copies in the House. I had one which I had borrowed from the Commissioner of Police, and the member for Warren had the other. I remember the member for Balcatta being suspicious as to where he got it from.

Mr. Graham: He got it from me.

Mr. CRAIG: I feel sure the honourable member will appreciate the Traffic Act is in a much more concise form now than it was five years ago.

Mr. Graham: It has only been consolidated.

Mr. CRAIG: There are a few of the provisions still to come out. So far as the everyday motorist is concerned, we publish a guide to the Road Traffic Code which is issued to any applicant for a driver's license for the first time.

Mr. May: Which one is that; you have so many?

Mr. CRAIG: If the honourable member wishes to improve his driving, I will be glad to make a copy available to him with the compliments of the Government. The Government gives quite a lot of things away free. In addition to that, there is a guide to better driving, which is issued to the applicant after he has successfully passed his driver's test. The Government will be only too pleased to give this to any member who wants to improve his driving.

If a motorist is conscientious and wants to know more about the Traffic Act, there is another publication which the Government makes available at a small charge. This helps the ordinary motorist in his everyday driving. I feel sure the honourable member will agree that the regulations are far more concise. Today the motorist can purchase the Road Traffic Code and keep himself up to date.

Mr. J. Hegney: How much is that?

Mr. CRAIG: It costs 75c and is well worth it, particularly if any member thinks his driving needs improving.

Clause put and passed.

Clause 2 put and passed.

Clause 3: Section 5 amended—

Mr. GRAHAM: This clause seeks to remove a very severe penalty from a person who could have created a very severe situation, if I might express myself thus. It refers to the driving of a car without a license, and, accordingly, without third party insurance cover. One can imagine the dire effect on some unfortunate who happens to be the victim of an accident. For that reason, provision is made that the driver's license shall be suspended for that period, and this clause seeks to delete that suspension.

Mr. CRAIG: This more or less makes the implication for the suspension of the vehicle applicable to the driver's license. I will have the point made by the member for Balcatta examined as it relates to third party cover, and, if necessary, we can make adjustments in another place. I think the honourable member agrees with the intention of the clause except for the third party cover?

Mr. Graham: Yes.

Clause put and passed.

Clauses 4 to 9 put and passed.

Clause 10: Section 14A amended—

Mr. CRAIG: The member for Balcatta made the point that I secured the co-operation of the Country Shire Councils' Association in conection with the creation of a fund for railway crossings. He more or less complimented me and suggested that co-operation could have possibly been secured in another matter. He was referring to the contentious question of State-wide traffic control. The Premier interjected and helped the honourable member.

The report that was read by members of this House and in another place made a great contribution to road safety. The Government has not yet made a final decision on the recommendation of either the majority or minority part of the report, but the report has at least served to awaken the interest and the responsibility of many country shires towards road safety. This has been evident in the reports I am now receiving from regional traffic councils on the scope of their work in this field. Many shires are interested enough to send their traffic inspectors along to the National Safety Council for instruction.

I repeat, however, that an offer has been made that even at this stage any

shire—despite the fact that the Government has made no final decision in the matter—wishing to do so may make application to take over either the physical control of traffic or the control of licensing, or both. This depends upon the practicability of the police to carry out the work.

Clause put and passed.

Clauses 11 to 13 put and passed.

Clause 14: Section 32B amended—

Mr. CRAIG: The member for Balcatta drew attention to the wording of clause 14 and suggested there might be some error in the number referred to. I will check this and, if necessary, have it amended in another place.

Clause put and passed.

Clause 15: Section 69 amended—

Mr. EVANS: The words in this clause are of particular note. I would like clearly to differentiate between the position obtaining in the country districts and that prevailing in the metropolitan area. The Traffic Act defines the local authority to include the metropolitan area, and in respect of the metropolitan area the Commissioner of Police is the local authority. When referring to this clause, the member for Balcatta said the effect of the enactment would not alter the position which in effect, or in practice, applies in the metropolitan area.

I can readily understand that, because a magistrate in the metropolitan area would certainly take judicial note of the fact that an offence took place in a well-known street in the metropolitan area. The metropolitan area in this regard is one huge local authority area, but in the country a different situation applies. Local authorities have boundaries that abut. In recent years in Kalgoorlie, where there are three local authorities, there have been cases where traffic inspectors have gone beyond their jurisdiction. They have chased a fellow outside the area of their jurisdiction and have laid their complaint, but have not been able to prove the alleged offence happened within the boundaries of the local authority.

The other point I wish to make is that I cannot understand the Minister's justification for his statement that this enactment has been made at the request of the country shires, which complain at the expense of having to produce a map. Surely those local authorities have a map showing their own boundaries! In many cases the maps have not been changed for years. There is no question of a fresh map being required every time a prosecution is made. In Kalgoorlie the local authority has been using the same map in traffic court offences for a long time.

My final point is in connection with the onus of proof clause. It is a principle of British justice that a person is innocent until proved guilty. Because of that axiom, proof of guilt should not be facilitated by legislative action providing that a certain situation shall be deemed to have existed. A certain situation must be proved to exist by normal methods of proof. We should not make it easier for our local authorities to clinch a prosecution; we should require a local authority to prove the essential grounds of the prosecution. Such a provision as this will make prosecutions easier; will possibly induce incompetence; and cases will be prepared in a less careful manner.

In country areas, cases that should be thrown out of court will be proceeded with because of the ignorance of the motorist who does not have a map of the local authority boundaries, and possibly does not realise that he was apprehended outside the boundaries of the local authority employing the traffic officer. We should be no party to a situation like that when it is feasible that it could exist and will apply if we pass this particular provision. I intend to vote against it.

Mr. CRAIG: The honourable member made his point during his second reading speech. However I am surprised at his attitude when he says it will be easier for a shire to clinch a prosecution. I do not think this is so, and I feel sure the shires would take exception to this and to the line of thought that when the boundaries of shires adjoin there will be an argument between those shires as to which one takes the prosecution and which one collects the fine. I understand there is the utmost co-operation between the shires on traffic control.

The honourable member also suggested that in Kalgoorlie the shire has been using the same map for years. I can say that in other parts of the State, local authorities have been using their own particular maps for years, but there is one magistrate who adopts a different attitude and will not accept a map being used year after year. He demands a new map dated no earlier than six months previously. This costs the local authority something like $18. I do not think undue concern will be caused in any quarter.

Clause put and passed.

Clause 16 put and passed.

Title put and passed.

*Report*

Bill reported, without amendment, and the report adopted.

*Third Reading*

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

## STAMP ACT AMENDMENT BILL (No. 2)

*Second Reading*

Debate resumed from the 23rd November.

**MR. GRAHAM** (Balcatta) [7.53 p.m.]: This Bill is complementary to one aspect of the Bill we have been considering, and I have no objection to it.

Question put and passed.

Bill read a second time.

*In Committee, etc.*

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

*Third Reading*

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

## GOVERNMENT EMPLOYEES (PROMOTIONS APPEAL BOARD) ACT AMENDMENT BILL

*Second Reading*

Debate resumed from the 23rd November.

**MR. W. HEGNEY** (Mt. Hawthorn) [7.56 p.m.]: I am pleased to indicate I am in full accord with the provisions contained in this Bill. The full title of the Act which was passed in 1945 is as follows:—

> An Act to provide for appeals in respect of promotions by persons permanently employed by or under the Crown; and for the establishment of a Promotions Appeal Board to hear and determine such appeals, and for other incidental purposes.

Since the parent Act was passed, I think this is the eleventh occasion on which amendments have been made to meet varying circumstances which have occurred over a period of 21 years. There are actually three proposals in the Bill. The first is to clarify the matter of appeals by those who are entitled to appeal.

Under the original Act, appeals were limited to members of the union covering the particular award or industrial agreement; and, later on, a provision was inserted that the Minister on special grounds could allow an appeal. This left the position in such a way that if no member of the appropriate industrial union appealed, no other employee had the right of appeal. That was altered and appeals were restricted to members of the union in 1954.

I recall introducing an amendment in 1956 to widen the scope of appeals to enable non-members of a union to appeal if there was no member of the particular union interested or involved in an appeal. In 1964 an amendment that was carried, restored, to a great extent, the position to what it was in 1954.

Now, in 1966, I am pleased to say the measure before us is rather comprehensive, and it appears that all circumstances will be covered. Non-members of a union covered by an award are not entitled to appeal, but if no members of the union desire to appeal, employees of the department who are not members of the particular union may appeal.

In addition to that, the Minister may grant an appeal where there are special grounds for such an appeal. The Bill is drawn up in such a way that it clarifies the position to the satisfaction of the Civil Service Association, the Trades and Labour Council, and the unions affiliated therewith.

Another matter is the determining of seniority. The Government Employees Promotions Appeal Board must, in connection with appeals, have regard to certain factors. Two of the main factors which must be taken into account are superior efficiency and seniority.

The Bill provides for the direction—or indication—to the Government Employees Promotions Appeal Board as to the method of determining seniority. That is to say, if two employees appeal and they have equal service in the department, then prior service is to be taken into account to determine seniority.

Another item which is dealt with in the Bill permits the Public Service Commissioner as the recommending authority—and a definition of "recommending authority" is in the original Act—and the promotions appeal board when considering the efficiency of employees, to have regard for acting service in the vacancies to be filled. That will only apply in cases where such service occured prior to the position becoming vacant.

The Civil Service Association has indicated that that was the policy of the association, and it is in complete agreement. On the contrary, the Trades and Labour Council is not in favour of the policy, so the Minister has been good enough to indicate the distinction in the Bill, and the particular clause will only have regard to members of the Civil Service Association. I have pleasure in supporting the second reading.

Question put and passed.

Bill read a second time.

*In Committee, etc.*

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

*Third Reading*

Bill read a third time, on motion by Mr. O'Neil (Minister for Labour), and transmitted to the Council.

## ALUMINA REFINERY AGREEMENT ACT AMENDMENT BILL

*Second Reading*

Debate resumed from the 23rd November.

**MR. HAWKE** (Northam—Leader of the Opposition) [8.5 p.m.]: This Bill proposes to amend the Alumina Refinery Agreement Act in some quite important parts. The Bill has been introduced into Parliament very late in the session and the Minister for Industrial Development gave

us some explanation in justification for the late introduction. He told us the necessary agreement between the Government and the company had been signed only a few days ago. I have no doubt that is a fact; but why the agreement could not have been signed much earlier is not really clear. Those concerned must have known that Parliament would be finishing the session either at the end of this week or the end of next week, and consequently it seems to me that negotiations for this agreement should have been speeded up more than they were.

The contents of the Bill are not easy to understand. They are quite complicated in some respects, as the Minister agreed when he was explaining the Bill to us. In fact, in regard to one part of the Bill the Minister appeared to be in some difficulty himself. He told us the particular provision was very complicated, or appeared to be very complicated, but if we cared to read that portion of the Bill carefully we would find just how simple it was. I am still trying to find out how simple it is, and I have not had much success up to date.

The company which is operating the alumina plant at Naval Base is known as Alcoa in order that its identity, as defined in this shortening of the title of the total name, could be more easily understood and become more widely known. The Minister told us there is a current expansion of the existing industry which will mean the handling of 400,000 tons per annum as against the 210,000 tons being handled now. The Minister did not tell us whether this was bauxite or alumina. I took it for granted it was bauxite.

Mr. Court: The capacity of the refinery will be 410,000 tons of alumina.

Mr. HAWKE: I wanted to be clear on that. When I was developing this point the Minister started off on the wrong track, but he finished up advising that the figure applies to alumina and not to bauxite.

In justification of the main proposal in the Bill, the Minister told us the company now needs greater flexibility in its negotiations, and greater flexibility to negotiate in the future. The main proposal is to authorise the company to separate from the mineral lease which it holds, six separate mineral leases. I see no serious objection to the proposal. However, I would like more explanation from the Minister about his claim of the company now needing greater flexibility in its negotiations.

The Minister, in his explanation of this point, left members in considerable doubt as to what the negotiations were to be about and with whom they were to be conducted; and also in regard to the objective which was to be sought. I have not the foggiest idea myself—nor could anyone else have from the Minister's explanation—of the nature of the negotiations for which the company needs greater flexibility to prosecute. There must surely be some clear-cut and full explanation as to what the negotiations are to be about.

On studying the Minister's speech a little further, I noticed there appeared to be an explanation that the company possibly, or probably, was going into partnership with some other company or group. Presumably this would be for the purpose of getting some other group or company to come in; and, in return for coming in, that company would have some right of access to one or more of the proposed six separate mineral leases which, if this Bill becomes law, will be taken from the main bauxite lease—or main mining lease—which the company now holds under the original agreement.

So I hope the Minister will give us much more information under that heading than the very sparse or almost non-existent information which he gave during his second reading speech. It is one thing to say the company now needs greater flexibility to carry on negotiations, but it is far more important in my view to tell us what the negotiations are to be about and with whom they are to be conducted, and what is the total objective—or main objective—which is to be pursued in the negotiations.

I have no doubt they would be negotiations of a constructive nature and calculated to further develop the industry. Still, I think members of the House are entitled to know far more in connection with this feature than they have so far been told.

The Minister went on to tell us the right of assignment in regard to the six separate leases will be conditional upon the construction by the company within three years of an additional refining unit with a capacity of not less than 180,000 metric tons of alumina for each mineral lease which will come into existence in the event of Parliament approving of this Bill. That certainly indicates a considerable further expansion of the alumina processing industry at Naval Base, and I think it makes it all the more necessary to have additional information as to who will be associated with this further development and with this proposed considerable increase in the production of alumina.

There is one part of the Bill about which I am not very happy. The provision is at the bottom of page 4 and at the top of page 5 of the Bill, and reads as follows:—

> (2) No assignment shall be permitted under paragraph (a) of subclause (1) of this clause unless (except where and to the extent that the parties hereto may otherwise agree in relation to any matter mentioned in this subclause) . . .

and so it goes on. As far as I can understand, this amendment in practice would give to the Government and the company, and any other parties involved, the right to do things outside of this amending Bill.

When he is replying to the second reading debate, I would like the Minister to explain, as fully as possible, the situation with which I am now dealing. I think this principle was contained in one or two Bills last year. As we faced the situation at that time, it appeared, whilst Parliament was approving certain conditions in the agreement, there was also being included in it a provision calculated to give the Government on the one side, and the company on the other side, the right to alter the agreement as they pleased, from time to time, without returning to Parliament for any approval for the alterations which might be agreed upon.

So I would certainly like some information in full explanation of that provision in the Bill. In that regard the Minister went on to say it is true these proposed words in brackets are needed, because without them too much rigidity could exist and militate against something reasonable as far as the company and the State is concerned. That could only apply if urgency became the essence of the situation. Parliament meets every year and is in session for five months or so each year. I realise that somewhere between the end of November, or the first week in December, and the beginning of the July next following, circumstances could arise to make it desirable in every way for some portion of this proposed legislation to be exceeded. Provided the basic reason for exceeding the legislation was progressive and constructive, I would have no serious objection to the proposition included in the words contained within the brackets.

However, it is not easy to conceive of some situation developing urgently which would require action outside the agreement as contained in the Bill. Therefore I would appreciate if the Minister could indicate to us probable situations which could arise between, say, December in one year and July of the following year to warrant a provision being placed in this amending Bill to give the Government and the party or parties concerned the right to go outside the absolute wording of the law to enable something to be carried through legally which otherwise could only be carried through illegally or postponed until such time as Parliament was in session and the necessary amendment to the law could be made.

The Minister went on to deal with the possibility or even the probability of the company, in some years' time, taking action to establish a smelting plant at Kwinana to smelt the product of alumina into the total finished product of aluminium. I want to delve a little into history at this stage, because when the initial legislation was introduced into this Parliament, I criticised strongly the Government in agreeing with the company to allow action to be taken to remove from Western Australia the tremendous advantage which the State and its people would receive in the event of the company processing the bauxite raw material right through to the total finished product of aluminium. I know the explanation given by the Minister on behalf of the Government at the time was to the effect the company was not prepared to establish a smelting unit in this state because of the high cost of electric power in Western Australia as compared with the cost of such power in Victoria.

It is necessary for me to go much further back than this time. When the Government, of which I was privileged to be the leader, granted the prospecting leases for bauxite to the Western Mining Corporation, there was a clear-cut understanding between the Government and the company of the absolute intention of the company to process bauxite right through to the finished product of aluminium should the company succeed in its prospecting activities of discovering adequate quantities of bauxite of satisfactory quality in the Darling Ranges.

Unless the local company at that time had been prepared to give such an undertaking, no right to prospect for the raw material of bauxite would have been granted to the company. I should explain briefly the processing of bauxite to the stage of alumina is not the more important stage of processing or the more valuable stage of processing. The processing of alumina to the finished product of aluminium is more than 50 per cent. of the total industry; it requires far more than 50 per cent. of the total capital investment; and it uses far more than 50 per cent. of the total number of people employed; and aluminium represents far more than 50 per cent. in value as against the product of alumina.

So, as I say, the prospecting rights were granted to the local company on the clear understanding of the intention of the company to carry out all its processing activities within Western Australia in the event of the company being successful in finding adequate quantities of good quality bauxite in the Darling Range. We all know the company did succeed in its search for bauxite. Yet when the chips were down and decisions had to be made regarding the total processing of the raw material, it was finally agreed, between the Government and the American company which later entered the picture, the processing to be carried out in Western Australia would only be to the stage of producing alumina. Thereafter the alumina would be shipped to Geelong, or somewhere near Geelong, if I remember rightly, and would there be processed into the total finished product of aluminium.

Therefore it is satisfying and encouraging to a point to know the company now operating the plant at Naval Base, and also, presumably, the same company operating a plant in Victoria to process alumina into aluminium, is considering the establishment

of a smelting plant at Naval Base or some place nearby to process alumina into aluminium. The Minister was frank enough to tell us there was no prospect of a smelting plant of that nature being established for at least 10 or 12 years. In all the circumstances perhaps that is understandable, seeing the company has a smelting plant operating at present in Victoria. As I understand the position, and as the Minister explained, there are limited marketing prospects for aluminium.

Other companies in Australia are operating in this field, in addition to the company operating the plant I have mentioned in Victoria. Other plants, of course, are being operated in other parts of the world. So the total world market for aluminium may be limited because of the excess of competition between all the companies in the world which are producing aluminium.

The Minister read to the House a letter addressed to the Premier by the local company. It was a long letter. I listened to it very carefully. When he finished reading it, had the Minister read the signature: "Charles Court, Minister for Industrial Development" I could have believed what he read, although he explained this letter was signed by a representative of the company. I am not suggesting the Minister prepared this letter for the company, but in my own mind he had something to do with it. I do not see much wrong with that, or anything wrong with it at all, possibly.

I can appreciate the representative of the company would wish to send the Premier a letter framed in the best possible terms and it would be a natural wish that Parliament should understand the situation from the company's point of view, and I could readily understand the representative of the company, in consultation with the Minister, suggesting, perhaps, there should be a discussion between them about the best lines this communication should follow. I can see the Minister for Works, who is the ex-Minister for Health, looking at me as if he might jump at me any tick of the clock. I hope he will restrain himself in a most conciliatory spirit.

The SPEAKER: I will restrain him.

Mr. HAWKE: Thank you, Mr. Speaker. However, I think I am not 100 per cent. wrong in suggesting the Minister for Industrial Development played some part in the letter which finally reached the Premier from the company, and which the Minister read to us so convincingly in this House. I support the second reading.

**MR. COURT** (Nedlands—Minister for Industrial Development) [8.29 p.m.]: I thank the Leader of the Opposition for the contribution he has made to the Bill. Despite the fact that he suggested I might not have explained too fully the complexity of the separate mineral leases, I thought he did an extremely good job in indicating he really understood, and there was no mystery about it.

He asked me to clarify one or two points, and I am always anxious, when considering agreements as important as this one, that members on one side of the House or the other should seek clarification, because that does help in the future interpretation of these agreements.

On the question of the negotiations I referred to the need for greater flexibility. The situation is this: It is not uncommon in the modern mineral and metal field for a company to enter into a series of arrangements with a number of companies in respect of the operation of its deposits. This has tremendous advantages for a number of reasons. It means that a company such as Western Aluminium No Liability, in this case, can make a series of agreements with a number of outlets for its product.

It is possible for the company taking one of the six separate mineral leases to enter into an agreement with another corporation, and for it and this other corporation to deal jointly in the bauxite of this separate mineral lease. The bauxite will be processed in an alumina refinery which virtually has a captive market because of this arrangement.

It was announced when the first addition was made—that being the one which is in the process of completion at the present time, and which will add 200,000 tons per annum to the capacity of the alumina refinery—that this extra production was to go to Amax. This is a firm which has been a very large fabricator of aluminium, but it decided it would integrate backwards into the actual production of alumina, as well as being a fabricator. Alcoa which has a 51 per cent. ownership of the Western Aluminium project at Naval Base was able by a very satisfactory arrangement with Amax to supply that company with alumina for its new smelting plant in America. The result was that Alcoa was able to negotiate to step up the expansion of the existing alumina refinery from 210,000 tons to 410,000 tons per annum of alumina production capacity.

If the company is to continue with the expansion it will assist greatly if it can supply to a number of outlets. For instance, it could supply its parent company in America, or it could supply a smelter in Japan or in Europe—in one of the countries which does not have an indigenous source of bauxite. The outlet has to undertake to take from the refinery in this State a prescribed tonnage, and this tonnage will be related to the special separate mineral lease.

I did indicate in my second reading speech that Western Aluminium No Liability would not commit the whole of the bauxite in any one of its separate mineral leases. The arrangement is that it will only commit about one half. When the deal is completed with a third party for the

supply of 200,000 tons per annum of alumina, this separate mineral lease will still have a very large tonnage of bauxite which becomes part of the total scheme. Therefore we provided that the separate mineral lease, when it has run its race with the joint venture, will revert to part of the total Mineral Lease 1SA.

There is a simple reason for this. The company could not nominate, nor could the Government at this stage, who might be the third party in each of these six separate mineral leases. It can be taken for granted that a company like Alcoa—which is very reputable, which is established internationally, and which is a very competitive company—would in all cases have a reputable partner capable of taking this amount of alumina.

The fact that some party is prepared to negotiate for a unit with an outlet of 200,000 metric tons per annum is indicative of the fact it is a substantial party, because this quantity of alumina in turn will make a considerable amount of aluminium.

I have used the term: 200,000 metric tons per annum, and I should explain why I have used that term. The agreement only provides for 180,000 metric tons. The reason is this: I am told that when one of these refining units is designed it can only be designed to within 10 per cent. accuracy, therefore a tolerance has to be allowed. We said that we would not mind a tolerance provided it was specified in the agreement that the capacity was to be not less than 180,000 metric tons per annum. By a quick arithmetical calculation members will appreciate that this is the capacity represented by a 200,000 metric ton unit with a 10 per cent. tolerance.

The other point on which the Leader of the Opposition sought clarification was in connection with the words which appear in brackets on pages 4 and 5 of the Bill. They are—

> (except where and to the extent that the parties hereto may otherwise agree in relation to any matter mentioned in this subclause).

I invite the attention of members to the important words "in this subclause".

The reason is that it was realised that as each of these six separate mineral leases was being considered, and the company was negotiating with several parties, there might be circumstances under which the company would want some variation of the provisions within the particular subclause mentioned. Therefore we provided this degree of flexibility, bearing in mind that the Government of the day will be in control of the situation, because the parties have to agree.

To be more specific as to the type of thing that might require variation, I invite the attention of members to the various matters that I referred to. If I read the rest of the clause the position will become clear. It states—

> . . . at the time of such assignment the Company or the other corporation or both is or are obliged to commence to construct within one year and to complete the construction within three years of the date of such assignment of an additional alumina refining unit on land owned or held by the Company in the said State such unit having an annual production capacity of not less than 180,000 metric tons of alumina.

It could be said that for special reasons the Government of the day might care to extend that period of one year to 18 months or two years; it might care to extend the period of three years to three and a half or four years, or some variation of that kind.

Yet another point is the reference to land owned or held by the company. There are circumstances when it might be desirable in the interests of all concerned for the particular unit related to one of the special and separate mineral leases to be erected on a piece of land owned by somebody else. It would be quite unfortunate if we were not able to get the benefit of such a unit because of the wording of the clause I have just read.

Yet another point is the question of capacity. This refers to not less than 180,000 metric tons of alumina, but it could be that for some special reason we might want to adjust this quantity to 150,000 tons—it might be some variation upwards, but it is more likely to be slightly downwards. It would not be very much downwards, because there is a certain size of these alumina units at which they are economical, and below that they become uneconomical.

The last point I wish to comment on is the question of the smelter. Power is still to be our greatest single problem. We find that in many parts of the world power is available at prices that we regard as almost unattainable. For instance, the New Zealanders were planning their big power scheme to process bauxite at .2d. per unit. We find many places throughout the world where power is available at .3d., or converted to decimal currency between .2 and .3 of a cent. This is a long way from any foreseeable price reduction that might be effected in Western Australia.

However, it might be if there are special circumstances—the company is able to generate its own power—that allow it to get down to a manageable figure—something below .5 of a cent—so as to enable it, when other factors are taken into account, to be competitive. We will continue the research that has been done with the company, and I am sure in due course we will get there.

I want to point out that the tonnage capacity of aluminium of the Geelong plant is only 40,000 tons a year. When it is realised that in this State we will be producing 410,000 tons of alumina, and very shortly it is expected to rise to 610,000 tons, it will be appreciated that we have to find markets a long way from Australia.

I think we have done the right thing. We had to make a judgment as to whether it was better to accept the bigger alumina refining project or to hold out for a smelter. In my own view we would not have got the smelter and by holding out we would have lost the alumina refining potential.

It was better to press on with the bigger capacity and with the supply of alumina to the other countries of the world, until we could justify the construction of a smelter. This course was taken, and the result proved that our judgment was right, particularly in view of the fact that negotiations are proceeding to build a third unit to bring the capacity up to 610,000 tons.

We are planning ahead for the railway capacity to run into 2,000,000 to 4,000,000 tons of bauxite in the years that lie ahead. This will give some indication of the refining capacity. I thank the Leader of the Opposition for his support of the measure.

Question put and passed.

Bill read a second time.

*In Committee*

The Chairman of Committees (Mr. W. A. Manning) in the Chair; Mr. Court (Minister for Industrial Development) in charge of the Bill.

Clause 1 put and passed.

Clause 2: Section 2 amended—

Mr. HAWKE: The Minister made a much fuller speech in replying to the debate than he did when he introduced the Bill. I wish to raise one question in relation to the statement made by the Minister. He said that power was still the greatest single facor in the establishment of a smelter, because power was still approximately 60 per cent. of the raw materials used in the production of alumina. Was the Minister referring to 60 per cent. of the total cost, or to power being 60 per cent. of the raw materials in the production of alumina?

Mr. COURT: It is 60 per cent. of the actual cost of the aluminium. In the industry power is referred to as a raw material. I always find it hard to regard power as a raw material, although when we see aluminium smelted we find that power is a vital consideration in its production.

Clause put and passed.

Clauses 3 to 5 put and passed.

Title put and passed.

*Report*

Bill reported, without amendment, and the report adopted.

*Third Reading*

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

## PRIVATE RAILWAYS (LEVEL CROSSINGS) BILL

*Second Reading*

Debate resumed from the 23rd November.

**MR. BRADY** (Swan) [8.46 p.m.]: I have looked through this Bill which is only a small one, and I think the Minister made it clear that it was desirable that we should have a separate Bill dealing with level crossings as they affect private railways, rather than have them included under the Public Works Act which, in section 100, covers Government railway level crossings.

Of the five clauses in the Bill the most important two are those dealing with the right of way at level crossings, and the new level crossings or new roads which are to be built over new railways.

I believe the House can accept this Bill with confidence and I have no reason at all to try to alter it in any way. It would seem that to some extent the Minister is trying to ensure that the companies concerned, and particularly those in the big ventures up north, will do the right thing by the general public and the State by providing adequate protection. At the same time the public will be obliged to take heed of certain warnings which will be provided from time to time.

For example, all vehicles must give way to railway engines, trucks, or carriages approaching within a quarter of a mile of a level crossing. This provision is desirable for more than one reason. A quarter of a mile might seem a long way, but the loadings on the railways in the north, and particularly at Hamersley and Mt. Goldsworthy, are pretty high and run into 3,000 to 5,000 tons. The speeds could be excessive and it would not be easy for those trains to be brought to a standstill in a short space.

The Government is also trying to ensure that the type of warnings to be erected will be similar to those used by Government railways. Here again this is desirable and the Government is to be complimented on its attitude in this respect. I do think there has been a tendency in the past for signals to be allowed to fall into disrepair, and this applies to both private railways and Government railways. I hope the Minister will ensure that signals are properly maintained, because this is far more necessary these days

as 15,000 to 25,000 new cars are put on the roads each year.

I recollect that some years ago a man was hit at a crossing just out of Bayswater where the line branched off to Ascot. At the time the man was concerned because he felt he might be prosecuted as a result of the accident. I subsequently inspected the crossing and found that the man had no reason for alarm at all because the crossing had no warning signals whatsoever. If any action was to be taken it should have been taken against the Railways Department; certainly not against the man.

For 40 or 50 years the Midland Railway Company conducted a private railway line through Midland and it was only in the latter years of its existence that the company commenced to install warning lights or bell signals on the crossings. Within the last month I received a letter from the Swan-Guildford Shire Council expressing its concern in connection with the signals or warnings which will be used on the standard gauge railway line in the Hazelmere area. The council is fearful that the normal warning signals—and some are in existence at the moment—will be inadequate on the standard gauge line.

I am inclined to agree with the council and I sent a letter to the Railways Department requesting it to ensure that the crossings committee should do its level best to provide for adequate warning signals on the level crossings concerned, otherwise I feel there could be loss of life.

By and large, the House can accept this proposition. I have no criticism of it. There is one point, however, to which I wish to draw the attention of the Minister.

When he introduced the Bill he said—

> Although the agreements provide for the railways to be operated in a safe and proper manner, there is no certainty that the Government can provide adequately in any lease, agreement, etc. in respect of the position at level crossings.

I hope that when public life and safety are at stake the Government will try to the nth degree to ensure that private railways have adequate protection at all times. This is absolutely necessary in places like the north where a great number of travellers and tourists are involved. The Minister should provide for adequate protection through the agreement. I feel sure he will do that and consequently we have nothing to fear. I am of the opinion private companies will suffer a great deal if they do not provide adequate protection at level crossings.

I support this measure and hope that ultimately adequate protection will be provided at all level crossings whether they be in connection with a private railway company or a Government railway line—standard gauge or otherwise. Because of the increased volume of traffic, signal systems must be maintained in proper working order.

**MR. COURT** (Nedlands—Minister for Railways) [8.55 p.m.]: I thank the honourable member for his contribution. He sought some assurance on two main points, one being in connection with the standard of maintenance, particularly in respect of signal systems, and the other being in connection with the protection of the public at crossings.

Dealing with the first point, I can assure him that the agreements do provide—that is, the ratified agreements as well as any other subsidiary agreements entered into under the terms of the ratified agreements—for the railways to be operated in an efficient manner and for maintenance to be of a sufficiently high standard. It is intended, of course, to keep this matter under review all the time, but the companies for their own sakes will require a high standard of efficiency and this matter will largely look after itself. Nevertheless the Government of the day has a responsibility to the public to check, as it has the right to do under these agreements.

On the second point, I might have been a little ambiguous in my comments, but what I wanted to convey was that in bringing this Bill to Parliament we wanted to overcome one point in particular which we felt we might not be able to do in a lease if the necessary binding control was to be achieved so far as the general public was concerned; and that referred to the level crossings.

We can provide that the railway will be in a certain place and that certain conditions will be observed as between the company and the Government. That part was easy. However, when dealing with the public we must have some statutory power if we want something to be binding on the public, and *vice versa*. This is the main reason—I think it is fair to say it is the only reason—that it is necessary to bring this to Parliament to clarify the position. We want there to be no doubt in the public mind that when it comes to one of these railway crossings, the same conditions apply as apply to the W.A.G.R. lines.

Let us face the reality of the situation. A person from the Eastern States visiting the north would not know whether he was crossing a Government railway line in Meekatharra or a private line in the Ashburton-Pilbara area; and this is the main reason for the introduction of this Bill. I thank the honourable member for his support.

Question put and passed.

Bill read a second time.

*In Committee, etc.*

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

*Third Reading*

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

## ADOPTION OF CHILDREN ACT AMENDMENT BILL

*Second Reading*

**MR. GRAHAM** (Balcatta) [9 p.m.]: I move—

> That the Bill be now read a second time.

This Bill had its genesis in the call made upon me slightly more than 12 months ago by a very fine type of citizen who was distressed because of certain particulars which, at the present time, are shown on applications for the adoption of children and other relevant matters.

I was most surprised and shocked to find that under the rules made for the adoption of children, it is necessary to have set down in full the names, the addresses, and the occupations of the parents of the child sought to be adopted. Also, it is necessary to state whether the child is legitimate or illegitimate. Of course, we have to be a little broad-minded and realistic with regard to this subject and we must appreciate that, in a number of cases, no doubt the mothers of the children sought to be adopted would be single teenage girls; although, of course, they may not necessarily be teenage girls. The fact that their full names and addresses are made available to prospective adopters of these babies and young children is, I think, something which should not be tolerated for one moment.

I am aware of a complication which arose because this system is adopted and whereby, because of this particular form, one of the most highly ranked public servants in this State—as it so happens—became aware of the fact that the daughter of a friend and neighbour of his had had the experience of giving birth to a child out of wedlock. These things should not be bandied about, particularly when there is no necessity for it.

Furthermore, I would suggest that, in very many cases, the element of curiosity is too great for many people to avoid. If the details of the parents of the child are given, this invites curiosity. Hypothetically, the mother of a child could be shown as Mary Jane Smith of 42 Salisbury Street, Cottesloe. I think there would be many people, including the adopting parents, who would tend to go to that address. Perhaps they would not go to the extent of knocking at the door, but perhaps they might go to the length of parking a vehicle outside the house in order to see what sort of person is the mother of the child they had just adopted, and so on. I believe all of these things to be most undesirable in the interests of the mother who bore the child; in the interests of the adopting parents; and, of course, in the interests of the child itself. Furthermore, I do not think it is necessary on a form which is available for people to sign, to witness, and for other people to handle to state that the child is legitimate, or illegitimate; but that is the requirement at the present moment. The fact is that this is a separate little soul whose parents do not desire it but there are some other people who, because of a gap in their lives, decide they want to adopt it as their own.

If I sought to adopt a child, I would of course be entitled to the fullest information as to the records and the type of people the parents were; as to the physical stature of the parents; and to other elements which concerned the parents. Naturally enough, I would want to have a look at the child, and there is ample opportunity for that in the law as it now exists. But, as to whether such a child was born of a marriage, or outside of a marriage, I do not think that fact would concern me one iota. It is the child which is the important factor, together with the other particulars I have mentioned.

Some years ago—I think in the matter of making application for assistance to the Child Welfare Department—there was a standard form, and printed in red lettering at the end of the page was the stipulation that the person filling out the form—the mother or father who was applying for relief—must state which of their children were legitimate. Representations to a sympathetic Minister for Child Welfare resulted in that stipulation being completely eliminated from the document. Everything has gone on without any difficulty in connection with the absence of that most embarrassing requirement.

The schedule of the regulations attaching to the Adoption of Children Act sets out a form of application, which reads as follows:—

> To His Honour,
> I (or, in the case of husband and wife, We), (Here state name or names in full, and add occupation and place of residence),

That is quite all right, but it goes on to say—

> —do hereby apply to adopt as my (or our) child C.D. (name of child in full), a male or female (and, if illegitimate, add illegitimate) child under the age of fifteen years, whose parents are (state names in full, occupation and place of residence of child's parents or legal guardian, if the same can be ascertained). We desire that the christian names and surname by which the said child shall be hereafter known—

and so the form continues.

There is nothing novel about this suggestion I am making because, in the Northern Territory and in Queensland, the procedures I am advocating, which are encompassed in my Bill, are actually in operation. For the record, I would like to read a communication I received from the responsible Minister in Queensland dated the 24th February, 1966. It reads—

> Dear Mr. Graham,
>
> In reply to your letter of 21st instant concerning adoption procedures in Queensland, I wish to advise you that, except in cases involving relatives, "The Adoption of Children Acts, 1964-65" and the Regulations thereunder ensure that the adopting parents do not have any knowledge of the identity of the natural parents and neither do the natural parents have any knowledge of the identity of the adopting parents.
>
> Adoption Orders in Queensland are not made by the judicial process but under the Act the authority is vested in the Director, State Children Department.

I interpolate here to say that I am not suggesting, of course, that the procedure for adoption should be altered in this State so as to make the Director of Child Welfare the responsible person. In this Bill, the procedure is left as it is at the moment. The letter goes on to say—

> This method of making Adoption Orders has functioned satisfactorily and without any difficulties for over thirty years.
>
> The form of application to adopt a child is on the basis of "being desirous of being authorised to adopt a child", and neither the name of the child nor its parents' is contained in this application. The only document on which both the names of the child, the natural parents and the adopting parents are shown is the Adoption Order, and this document is not available to any of the parties but is filed in the Register of Adoptions held by the Director of State Children. Access to this Register may only be obtained on order of the Supreme Court of Queensland.
>
> Adopting parents, as in the case of natural parents, rely solely on Birth Certificates to prove parenthood. In the registration of the adoption by the Registrar of Births, the original record of birth to the natural parents, as in the case of the Adoption Order becomes a sealed record with access only by order of the Supreme Court. The adoption is registered in the Adoption of Children Register which shows only the adopted name of the child and particulars of its adoptive parents.
>
> At no stage of the proceedings of making an Adoption Order or in the records of the Registrar-General does the word "illegitimate" ever appear.

This Bill has been drawn up in order that our State might conform with what operates in the State of Queensland. I might add further in respect of this matter that the adopting father who called to see me stated that, so far as he and his wife were concerned, they had no desire to know the names which had been given to this child whom they were adopting—a beautiful little girl whom they had seen and about whom they had obtained all the information they desired. That is all they wanted.

Mr. Craig: Would this attitude be followed by other adopting parents, do you think?

Mr. GRAHAM: No, I would not say that; but I cannot for the life of me see what business it is of the adopting parents or why they would want to know the name and the address of the natural parents. As I indicated before, this could give rise to most embarrassing circumstances which could affect the lives of very many people; that is, if the name of the child or its parents—whether married or not—were to be made known and were to be available to these other people.

That, then, is the principal purpose of the Bill which I am seeking to introduce. There is another purpose, too, and here again I was rather surprised to see—and I think probably members will agree with me—that if a person makes a will leaving his estate to his children, it does not automatically follow that the will shall apply to any child that the person has adopted. I would like to read section 7 of the Adoption of Children Act to the House, and this is as follows:—

> When an order of adoption has been made, the adopted child shall, for all purposes, civil and criminal, and as regards all legal and equitable liabilities, rights, benefits, privileges, and consequences of the natural relation of parent and child, be deemed in law to be the child born in lawful wedlock of the adopting parents.

If the section to the Act stopped at that point, all would be well, but it goes on with the proviso as follows:—

> Provided always, that such adopted child shall not by such adoption—
>
> (1) acquire any right, title, or interest whatsoever in any property which would devolve on any child of the adopting parent by virtue of any deed, will, or instrument whatsoever prior to the date of such order of adoption, unless it is expressly so stated in such deed, will or instrument; nor
>
> (2) be entitled to take property expressly limited to the heirs of the body of the adopting parent, nor property from the lineal or collateral kindred of

such parent by right of representation;

Then there is a third proviso as well. So it will be seen that whilst the opening lines of the section of the Act lay it down emphatically that for all purposes—civil and criminal—the adopted child shall be regarded as being the natural child of the adopting parents, because of the proviso there is no facility so far as inheritance is concerned.

I mentioned that if a parent adopts a child and if it becomes, as would be desired both morally as well as legally, completely and utterly the child of those parents, it should be treated on exactly the same basis as the natural children of that particular wedding. There should be no exclusion whatsoever.

Members can see that the whole purpose of this Bill is to ensure, first of all, that there shall be no stigma attached or attachable to a child who is adopted; and after it has been adopted that it shall be on exactly the same basis as the natural children of that wedding. I cannot see that there should be any quibble in that matter whatever.

In my Bill there is provision that, in respect of wills that have already been drawn in accordance with the existing law, the present procedure shall prevail; but hereafter any wills that are made shall treat all children of that family on exactly the same basis whether they be natural children, or adopted children unless, of course, the parent or parents deliberately decide to exclude one of their children which, of course, is their right.

Those are the two principles embodied in the Bill. There is nothing sensational about them; there is nothing novel about them; they have been tried and found to be effective, and because of that I hope there will be no opposition here and that the Bill will be agreed to by Parliament in order to avert some of the tragic circumstances that have developed and which, if members will use their imagination, they will see can develop from time to time.

The whole spirit of adoption, surely, is that when a child is taken into a home it becomes in every sense of the term part and parcel of the family. This will ensure that this will be done; that there are no impediments. Full records will be kept, but access to them will only be by responsible officers, and details will be made available to an applicant only on good and sufficient reason being shown, and on the decision of a judge of the Supreme Court.

Debate adjourned, on motion by Mr. Craig (Chief Secretary).

## MAIN ROADS ACT AMENDMENT BILL (No. 2)

*Returned*

Bill returned from the Council with an amendment.

## LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 2)

*Second Reading*

**MR. NALDER** (Katanning—Minister for Agriculture) [9.20 p.m.]: I move—

That the Bill be now read a second time.

This Bill contains three measures appertaining to the City of Perth Superannuation Fund, and one measure relating to the procedure to be adopted by a valuation appeal court under the Local Government Act. Firstly, by the City of Perth Superannuation Fund Act of 1934 it was provided that a scheme of superannuation or the establishment of a fund under the Act could not be effected without the authority of at least two-thirds of the council, and it provided for any such scheme being vetoed by the ratepayers in a similar manner to loan proposals.

The Act is inflexible and makes no provision for variations to the scheme. On occasions when amendments have been required, it has been necessary for a private member's Bill to be introduced in Parliament. Such amendments were made on seven occasions during the years 1941 to 1958. In order to avoid the necessity of introducing a separate Bill each time a variation is proposed, the City of Perth now seeks an amendment to the Local Government Act by the inclusion of a new section 169A to enable the council to amend its scheme from time to time, subject to compliance with the provisions of sections 5 to 8 of the City of Perth Superannuation Act, 1934.

The addition of a new section, 169A, is provided for in clause 2. This is designed to enable amendments to the City of Perth's Superannuation Fund Scheme being made in future by the council, subject to the approval of the Minister for Local Government.

The new proposal will enable the amendment to the scheme to be made retrospective to the 1st July, 1962. This will enable the council to give effect to the recommendations of the council's actuary whose report disclosed an available surplus at that date. It will enable adjustments to be made in respect of contributors to the scheme who have retired since that date. These include the previous Town Clerk, whose pension on retirement under the existing scheme was limited. The rights of any contributor under the existing scheme are not affected by the proposal.

There is also provision in subclause (6) for the right of new employees to elect to become a member of the existing scheme, or to subscribe to a scheme under the Superannuation, Sick, Death, Insurance Guarantee and Endowment (Local Governing Bodies Employees) Funds Act. This will enable employees of other local authorities who transfer to the employ-

ment of the Perth City Council to retain their existing scheme cover.

The Bill provides that before any new scheme comes into operation, the provisions of sections 5 to 8 of the City of Perth Superannuation Fund Act must be complied with. This means that at least two-thirds of the members of the council must approve of the proposal, which must then be advertised in the *Government Gazette* and the ratepayers given an opportunity to demand a poll on the proposal.

I will deal with clause 4 before clause 3. Clause 4 provides for the repeal of section 11 of the City of Perth Superannuation Act. This section provides that no payment shall be made to an employee of the City of Perth as a gratuity if he is entitled to receive any payment under a superannuation scheme. The payment of gratuities under the Local Government Act is limited to an amount equivalent to one year's salary, less the total of the contributions made by a council to the superannuation scheme.

The proposal to repeal section 11 of the City of Perth Superannuation Fund Act will enable the same limitations to be applied to the employees of the City of Perth as apply to employees of other local authorities. In clause 3 it is provided that when an appeal is heard, the valuation appeal court may regulate the procedure of hearing the appeal in such manner as it thinks fit, and is not bound by any rules of evidence.

The provisions of section 566 of the Act, which refer to valuation appeal courts, imply that the rules of procedure and evidence shall be those applying to courts generally. The application of these rules would necessitate the burden of proof being placed on the appellant. Unless evidence is submitted in an admissible form, an appeal must be rejected without any evidence being called to justify the valuation. This practice has not been carried out to date, but it is considered that if strict legal procedures and rules of evidence are not to be followed, the necessary authority should be specifically included in the legislation.

The previous valuation appeal court consisted of Mr. Crooks, Mr. Bracks, Mr. Cook, and Mr. Fyfe as chairman, none of whom are legal men. They were able, by their own machinations, to dispense with the rules of court. On the appointment of Mr. Petterson, who is a legal man, the necessity for this practice to be given the necessary legal authority became apparent, because if he applied the rules of court it would not be in the best interests of the appellant.

This measure will make it easier for the valuation officer, in his not having to comply with the strict rules of court, and this will be in the interests of an appellant in appealing against the valuation.

Debate adjourned, on motion by Mr. Toms.

## MOTOR VEHICLE (THIRD PARTY INSURANCE) ACT AMENDMENT BILL

*Second Reading*

Debate resumed from an earlier stage of the sitting.

**MR. DURACK** (Perth) [9.27 p.m.]: The Bill before us, which we have been debating from time to time in the last few days, presents me with an unusually difficult problem. There are some features of the measure which are obviously highly desirable, and about which I do not think there will be any dispute in this House. I refer, in particular, to the provision which will allow claims to be made by one spouse against another. This has been allowed as a statutory right, because at common law it is not possible in this field of law. It is a statutory right which has been allowed in England, South Australia, and, I think, in other parts of the British Commonwealth.

That is generally supported by the legal profession, and by most other people who have to consider the particular question. The other item in the Bill provides for the abolition of the limit of liability of the Motor Vehicle Insurance Trust on claims by passengers in motor vehicles against their own drivers. That liability is now fixed at $12,000. The Bill seeks to remove that liability.

Here again this is to the advantage of the injured person; unfortunately, that is, to the advantage of a great number of people in our community. The main feature of the Bill, however, is the creation of a new body to be known as a third party claims tribunal, which will take over all the jurisdiction of the Supreme Court in relation to claims in this field of law.

When I say all the jurisdiction of the Supreme Court, I think that statement should be qualified to some extent. It purports to take over all the jurisdiction of the Supreme Court, but, in point of fact, that will not be possible as a matter of law. Therefore, there is at the very outset of this proposal the creation of some rather serious anomalies.

For instance, the Bill itself recognises, which the Bill introduced last year did not, that frequently a claim for damages is made by a person who has been injured as a result of the negligence of both the driver of a car and of some other person or body. That particular problem was completely ignored in the Bill last year, but the Bill before us, permits a claim of that kind to be heard by the Supreme Court. Whereas in the case where there is only the driver of a motorcar being sued, the claim would be heard by the tribunal.

If the driver joined in the action with somebody else, the jurisdiction could be in the Supreme Court and entirely different principles would apply. Furthermore, if one happened to be injured by the driver

of a Commonwealth motorcar or by the driver of a motorcar from another State, the Constitution of Australia would give one the right to sue in the High Court. So it may well occur that people injured in these cases would take their claims to another court.

I just point out a few of these anomalies that are immediately created by the attempt to take away from the Supreme Court and give to a tribunal this particular jurisdiction. So it is not by any means true to say that all these claims are to be heard in the future by this tribunal.

Apart from the creation of the tribunal itself—I will come back to that later—the Bill makes another important change in the law; that is, it gives the tribunal the right to give damages by periodic payments—in weekly or monthly amounts—and the right to review the payments, from time to time, no doubt in the light of the circumstances of the injured person.

That is a very considerable change in the existing law on the working out of damages. This particular change is one that gives the tribunal the right not just to give lump sum payments, but to give damages on a periodic basis; and this is to be commended.

I do not propose to quote individually from a number of eminent legal authorities. However, the member for Subiaco mentioned earlier in the debate the views of one of the judges of the High Court (Sir Victor Windeyer) in regard to the question of fault liability. Sir Victor Windeyer is one eminent lawyer who comes to my mind who has advocated the change along the lines proposed in this Bill in regard to the assessment of damages and the alteration of the present system whereby damages have to be assessed in a lump sum, once and for all, and can never be reviewed in the light of changes in the circumstances of the person receiving them.

The inability of courts to review the circumstances of the injured party from time to time is a bad principle. It is also bad in this respect: It means that a great deal of guesswork has to be undertaken in the process of assessing damages. Therefore they are frequently hit and miss operations.

I should think lawyers generally would welcome this proposal to change the method by which damages are assessed and awarded. However, this proposal being confined as it is to the victims of car accidents introduces another obvious anomaly to the legal mind. Damages are awarded for personal injuries for a great many different reasons. For instance, if a person came on to my property and fell over a small hole or a trap or something I negligently kept near the front door, and was injured, that person could claim damages against me. Those damages are the same as the damages against the driver of a motorcar for negligence. Damages are assessed on the same basis. There is no distinction between drivers of cars and anybody else who has to pay damages. However, this Bill by setting up a tribunal will, of course, create this distinction and anomaly.

I believe it would have been very much better and a greater contribution to the development of a modern law, if this proposal had been incorporated as a power for the Supreme Court to award damages on this basis, if in a particular case that appeared to be justified. The Bill presents me with an unusually difficult problem, because I feel very strongly in favour of this proposal and would like to see it given a trial. I am not aware that this method of assessing damages has been tried anywhere else in the British legal system. I think there could be a very real value, not only from the point of view of the administration of the law in this State, but throughout the whole of the English legal system, if an experiment were made along these lines.

One comes to the fact that if we want to do those things that ought to be done—allow spouse *versus* spouse; take off the limit on liability; and allow damages on a periodic basis—then it appears we must support this Bill and also support the creation of the tribunal which it provides. However, I would like to say this: I believe the creation of this tribunal is an unnecessary step.

The object to be attained by the creation of the tribunal appears to be an attempt to obtain some consistency in the awarding of damages. That was clearly stated by the Minister last year when he introduced the Bill for the first time. There has also been some reference to uniform damages. I think there is some confusion here, because there can be no question of uniformity of damages in this jurisdiction, because each person's injuries have to be assessed separately; and unless one can get a person who is injured in exactly the same way and who suffers exactly the same loss, one cannot have the same damages. I have never heard of such a case occurring.

I think the complaint is that there is often a similarity between cases, although the injuries are not the same; and where there is a number of judges awarding damages, sometimes one judge will tend to give higher damages than another. That seems to have caused the Motor Vehicle Trust a great deal of trouble or worry. I do not believe this complaint of inconsistency between judges is of very serious merit.

There is bound to be some inconsistencies when different men administer the law. The same thing applies in relation to sentences. It is just one of the things with which one has to live; but, as pointed out by the member for Subiaco in his

speech, if one judge gets too far out of line, then one can appeal. Therefore a reasonable level of consistency is ensured by this right of appeal.

The other reason advanced for the creation of a tribunal is that it may be more efficient if the hearing of cases were taken away from the courts with, what has been called, their cumbersome legal procedures. This particular reason is simply based upon a complete lack of knowledge of the existing procedures in the Supreme Court in this State.

I do not want to justify what happens in the other States where there are juries and where there are somewhat outmoded legal procedures, but in this State, largely due to the modern views of the present Chief Justice, the method by which a case is heard is streamlined as much as is possible and documents are presented in the briefest form with the greatest economy of words. Moreover, it is possible to get a case on and heard in a shorter time than is possible in any other part of Australia, or, I think, in any other part of the English legal world.

So there is no substance whatsoever in any complaint that there are cumbersome legal procedures in getting a hearing in this State. The only basis on which I can justify any change from these cases being heard by a judge to being heard by a tribunal as envisaged in this Bill is the fact that the awarding of damages to an injured person whether in a lump sum or by means of a periodic payment, is essentially what lawyers would call a jury question. That is, one lays down the legal framework in which the decision is to be made. That is done by the lawyers and by the judge; but the final determination of how much is to be awarded is essentially and historically something that has been done by laymen.

When one comes to deciding the amount of damages which should be paid to a person who has established that his injuries were caused by the accident, and who has established his right to damages, it is a matter which cannot be decided by legal reasoning, and it is not a question of fact. All the facts of the matter have been established and it is a matter of opinion of what is fair compensation for the injury. That is a difficult decision to reach and one with which I have had a lot of experience—not as a judge, of course, but as a lawyer advising clients. I have handled a great number of these cases, and it is a difficult decision to say just how much should be given.

I feel it is of benefit to get another view on such matters and I think most lawyers do that. The problem is discussed with partners and with other lawyers one frequently meets. These matters are raised and another view is sought as to a fair amount for damages. Of course, under our existing system this decision is not reached by jury. As the member for Subiaco said, that system was abolished in this State many years ago and the decision is left entirely to the judge—the decision of one man.

As skilled as our judges are in these matters, and as experienced as they are, I still think it is a difficult decision for one man to have to make and I think it would be of value for a judge to have the assistance of some laymen in coming to a decision. The judge should be able to discuss the problem with them and obtain their views, and have laymen participate in this process. That is, I think, a justification for the creation of this tribunal.

There will be a judge, or a man with judicial status, as chairman of the tribunal and he will advise the tribunal what the law is. They will all participate in the finding of such facts as are necessary. The presence of two laymen will be of considerable assistance to the judge in finally determining how much will be given by way of damages. That is the only justification I can see for the tribunal.

If I had been given the opportunity of drawing up my own blue prints of a scheme, I would have left this whole operation within the Supreme Court and set up a special division within the court with one or two judges assigned to it, and have had assessors appointed to sit with the judges.

That is the way I would have tackled the problem, but I am asked to decide in this House what my attitude is to be to a somewhat different scheme, and as it contains certain features which are desirable, I propose to support it.

Nevertheless, there is one very serious objection to this Bill as it stands, but I find this objection can be overcome with an amendment I propose to move during the Committee stage, if the Bill gets to that stage. My objection is in relation to the right of appeal from the tribunal. In setting up this tribunal we have to be extremely careful to ensure that we preserve and maintain and further, if we can, our fundamental principle of the rule of the law and the independence of the judiciary and all those engaged in the judicial process.

In setting up the tribunal this Bill ensures that independence which we associate with the judicial process, in the person of the chairman; but it does not ensure that fundamental principle in the persons of the laymen who will sit on the tribunal. The Bill is deficient in two respects. The laymen will serve for a term of years only, and they might not be reappointed if they prove to be undesirable perhaps to a Government or a Minister, or somebody else who might have some influence in the matter. Secondly, they can be dismissed by the Governor for inability, inefficiency, or misbehaviour, and they have no right of appeal or redress against their dismissal.

This is a rather remarkable provision in a Bill setting up a judicial body. Only the other night when we passed the Public Service Arbitration Bill, I noted that the arbitrator had a right to appeal to both Houses of Parliament if dismissed. Even a magistrate, whose jurisdiction is confined to $1,000, has a right to appeal to Parliament. Our Industrial Commissioners have a right to come to Parliament, and they are given security of tenure until 65 years of age, as is the case with magistrates.

However, when we create this body which will dispense very large sums of money, with the responsibility of assuring the future economic stability of people injured in road accidents, and whose awards for damages could easily be $100,000 or $200,000 in an individual case, why are these men not given a proper security of tenure, and a proper judicial status?

The other matter, of course, is the fact that the Bill does not permit an appeal; and, in fact, it specifically says there is to be no appeal from a decision of this tribunal in regard to the amount of damages awarded. I believe there should be a right of appeal, in any event, from judges who have security of tenure. But I believe it is absolutely essential that there should be a right of appeal from men who do not have any proper judicial status whatever.

This Bill, as it stands, denies that right of appeal on such a vital and important matter as the amount of damages which are to be awarded. In this field of law the principal question is the amount of damages. Most of the cases, as far as negligence is concerned, are settled. There are few cases where there is any argument as to whether one party is negligent, and what the apportionment of negligence is. Sometimes there are difficult questions—largely medical questions—as to whether a person's injuries are due to an accident or perhaps due to some other medical reason. My own experience is that the principal question which arises and the principal difficulty is the assessment of damages, and it is on that question that the injured person is denied the right of appeal.

However, that objection—which I regard as a very fundamental objection—can be overcome by a very simple amendment to the section which limits the right of appeal. It is only necessary to amend one of the subsections. Atlhough I have a number of reservations about the tribunal itself, I propose to support the Bill and the creation of the tribunal. However, I do so on condition that there shall be a proper right of appeal.

There are one or two other matters I would like to deal with and they are in relation to some of the remarks which were made by the member for Subiaco. He referred to a number of legal authorities who have expressed their views on the reforms needed in this branch of the law. I respect those authorities which were quoted and I believe that ultimately, and perhaps not too far in the future, we will have a scheme whereby everybody who is injured on the roads will be entitled to some compensation, perhaps to the same extent as they are entitled to receive it today if they prove negligence. The trouble with the present system is that its liability is based on proof of negligence Those who cannot prove negligence get nothing, or, if guilty of contributory negligence, get considerably less than would otherwise be the case.

There are historical reasons for that, of course, and there are perhaps practical reasons and good arguments advanced for the retention of that principle. I do believe that the weight of the argument does rest in the need for the abolition of liability based on fault, and the setting up of some insurance cover for all those injured on the roads. This, however, will be a very difficult operation to carry out and it will require a great deal of research, particularly in regard to cost. The working out of some schedule will be extremely difficult.

There has been some reference to the workers' compensation scale and some analogy drawn between workers' compensation and these cases. There is no analogy whatsoever between the two. There is, perhaps, some serious criticism to be made of workers' compensation based on a very brief schedule without regard to the actual economic loss of the worker. I believe there will be changes made in the approach to workers' compensation in favour of a better cover for the economic loss sustained. The process of working out a proper cover for economic loss for injury is a very complex problem and one which can only be worked out, I would say, by very careful research not just in this State but throughout Australia, and probably in other parts of the world where we have the same legal system.

What I think must be emphasised is that this Bill does not tackle that problem in any shape or form whatsoever. The tribunal which will be set up will administer the same common law principles as the courts administer, except that it will be able to award damages on a periodic basis. That is the major issue, and I will be most interested to see it in operation. Essentially this tribunal is only taking over from the Supreme Court its present jurisdiction under common law principles. I am quite satisfied that the legal authorities who have been mentioned, who have considered the creation of tribunals based on the abolition of fault and an insurance cover for those injured on the roads would not conceive the creation of such a tribunal without adequate rights of appeal to a court or some higher tribunal.

In the paper given by the Chief Justice of New South Wales, Mr. Justice L. J. Herron—which was referred to by the member for Subiaco and which was also referred to in the Minister's speech when he introduced the Bill—he referred to some of these proposals. Reference was also made to the proposal of another New South Wales judge, Mr. Justice Else-Mitchell, who was also referred to by the Minister. In referring to Justice Else-Mitchell's proposal, Chief Justice Herron had this to say—

> This envisages the creation of a Motor Vehicles Insurance Board which investigates all claims and makes awards of damages, conduct of the claimant contributing to the injury being considered on quantum. Fault need not be shown but wilful act or misconduct of the victim may debar. The Board's determination is subject to appeal to a court.

Mr. Justice Herron's suggestions in this matter are for the abolition of fault, and for the assessment of damages by a judge, and, in some cases, still a jury. It makes one wonder somewhat when these proposals were presented, as they were, as being in some way in support of this tribunal. It disturbs me somewhat that this kind of argument is advanced in view of everything Sir Leslie Herron said at the Commonwealth and Empire Law Conference, which I had the privilege and the great experience of attending in August of last year.

However, I hope I have said enough to indicate to the House that this is a most complex and difficult problem. The Bill only scratches the surface of it. It makes some valuable proposals and, in so far as some of them are worth investigating, I support the Bill; but I regret my support of it is conditional upon a full right of appeal being retained in our ordinary courts of law to ensure the absolute maintenance and preservation of our existing rule of law and the independence of the judicial process.

**MR. DUNN** (Darling Range) [10.4 p.m.]: I support the Bill, and in doing so I ask the House to reflect upon what is well known to all of us; namely, the increasing number of motorcars and vehicles coming onto our roads, which number will continue to increase, together with an increase in the number of accidents which occur with motor vehicles. These accidents, of course, are followed by claims for damages by those who are injured and by the relatives of those who have lost their lives.

It is only right the House should be debating a measure which is designed to make some sort of an attack on an ever-growing problem. I feel certain that deliberations in this Assembly will be fostered by a united desire to arrive at a sensible solution to a problem which is causing great concern not only in this State but in all parts of the world, and particularly in those parts that enjoy the same legal processes as are enjoyed by the people of this State and of the Commonwealth.

Like the speaker who preceded me I am concerned about that part of the measure which deals with the right of appeal in regard to *quantum*. I cannot feel happy about a situation when nobody seems to be able, up to this stage, anyway, to give any assurance to the Chamber that there is good reason for dispensing with the age-old right of appeal to the courts on the question of *quantum*. It has been suggested that if this provision is deleted from the Bill it will be ruined. I have tried to analyse why that should be so, but I cannot see how it would ruin the Bill.

It seems to me that the number of cases that will pass from the constituted tribunal for consideration by the courts will be few indeed. An analysis of the position covered by the Act at the moment would indicate clearly that comparatively few cases reach the courts for their decision; many are settled outside the courts. If we remove this right of appeal I would like to feel sure the Motor Vehicle Insurance Trust, which has for its sole purpose the control and proper use of public money, will not suffer.

It is not unusual for the trust to make appeals to the court. In fact, I would say it makes more appeals to the court than any other body, as the Act is worded at the moment. This being so, one would like to feel that in the event of the personnel of the tribunal exceeding their authority in regard to the amount of *quantum* at least the trust would have the right of appeal to the court. Surely those controlling the trust would like to know that this right is still available to them!

So I find myself concerned about the fact that the trust is not worried about losing its right of appeal to the court. One begins to feel the suggestions that have been made that the tribunal will be dictated to by the trust may have some merit. If this is so, I must make my position clear in that I would not like to be a party to legislation passing through this Chamber which could result in the tribunal having to carry that stigma.

It is true that any tribunal could make a mistake in a judgment, and therefore it seems to me we would not lose anything if we gave the injured third party and the trust the right of appeal to the court. It appears to me we are dealing very lightly with a subject of great importance if we remove this right of appeal from the legislation. So I support the measure, because I consider it has many good points which have been put forward in an endeavour to solve many of the problems associated with this matter. However, although I

support the Bill at the second reading stage, in Committee I would be prepared to support an amendment to retain the right of appeal not only for the injured third party, but also for the Motor Vehicle Insurance Trust. I am most anxious to retain the right of appeal for the trust, because I cannot help but feel that if the tribunal exceeds its authority it could possibly grant huge *quantum* judgments.

Mr. W. Hegney: That is what this is for; but it could be the opposite.

Mr. DUNN: Well, you agree with me, then?

Mr. W. Hegney: Yes.

Mr. DUNN: I repeat: it is dangerous indeed, in measures of this nature, to deny anyone the functions of the judiciary. In support of what I have said I will quote from a letter which has been forwarded to every member of this House. Parts of it were quoted to the House this morning, but I do not think it would do any harm to have part of it recorded in *Hansard* because it would express, in a better fashion, what I am endeavouring to say. This letter was addressed to each member of Parliament by a member of the legal fraternity, and in it he quotes a statement made by a very eminent statesman, Sir Winston Churchill. That part of the letter I wish to quote is as follows:—

> The Judges, whose exclusive province and duty it has always been to try and adjudicate on such causes, have been alluded to by Sir Winston Churchill thus:—
>
> > "The complete independence of the Judiciary from the executive is the foundation of many things in our life. It has been widely imitated in varying degrees throughout the free world. It is perhaps one of the deepest gulfs between us and all forms of totalitarian rule. The only subordination which a Judge knows in his judicial capacity is that which he owes to the existing body of legal doctrine ennunciated by his brethren on the bench past and present. The Judge has not only to do justice between man and man. He also—and this is one of his most important functions, considered incomprehensible in some large parts of the world—has to do justice between the citizen and the State. The Judiciary, with its traditions and record, is one of the greatest living assets of our race and people; and the independence of the Judiciary is a part of our message to the ever-growing world which is arising so swiftly around us."

It behoves every member of this House and of another place to take heed of those words, because in regard to a problem which will exercise our minds even more than it has in the past it would be wrong for us to dispense with the full use, with the advantages, and with the knowledge of our judiciary which has been built up over the years, which we have learned to accept, and which we duly and faithfully honour. For those reasons I conclude by giving my support to the Bill, because I think it is a good measure. It is an approach to solving the problem, but I do make the reservation that during the Committee stage I will support an amendment to deal with the clause which seeks to take away the right of appeal to the judiciary.

**MR. GRAYDEN** (South Perth) [10.16 p.m.]: I support the second reading of this Bill, but there is one clause which I strongly oppose and I trust it will be deleted in the Committee stage. I refer to the clause which seeks to prevent a person from having the right of appeal to the Supreme Court.

Mr. Graham: You can trust the Opposition to do that for you, and you can vote with the Opposition.

Mr. GRAYDEN: I do not care who moves the amendment. I will support it to preserve the right of appeal to the Supreme Court. If such an amendment is not moved I will vote against the third reading.

I was rather perturbed by the remarks of the member for Subiaco when he quoted various eminent legal authorities earlier this evening. The member for Perth drew attention to one or two inaccuracies contained in his speech. He mentioned the comments of Mr. Justice Herron.

When the member for Subiaco was speaking he quoted at length from volume 37 of *The Australian Law Journal*, and made it quite clear that what he was quoting from was an address delivered to the Tasmanian Bar Association by Sir John Barry.

I have that address before me, and, having read it, I am completely convinced that the member for Subiaco missed the point altogether. It is quite a long address and takes up a number of pages. Virtually all of it is devoted to a criticism of litigation based on negligence, and the possibility of setting up a tribunal to administer third party insurance occupies a very small portion of that address. This matter was only referred to in passing.

The member for Subiaco took certain portions of that address out of context, and for that reason I will read passages from it to give an indication of what was in Sir John Barry's mind. He said—

> But if the law cannot do a great deal to halt or minimize the steadily rising toll of the road, it can at least do something to mitigate the harshness of some of its consequences. I take it as fundamental that the broad purposes of a

civilized legal system are to protect life, to ensure liberty, and to promote the pursuit of human happiness. Within the field of compensating victims of automobile accidents, it can be asserted with no fear of rational contradiction that the common law has failed; that the conceptions which the law invokes are inadequate and outdated, and that the methods it uses to determine the questions that arise do no credit to judges and the legal profession. I shall not seek to trace the course by which the motion became sacrosanct, that to establish liability for highway injuries fault must be shown. Interesting material on the development of the elusive concept of negligence and its application and its inadequacies will be found in P. H. Winfield's *"The History of Negligence in the Law of Torts"*.

He was preoccupied with the question of liability based on negligence. After giving other references he went on to say—

> This list is incomplete, of course, and it could readily be expanded, but it is sufficiently comprehensive to bring to notice all relevant aspects of the problem.
>
> I take as my starting point some remarks by Sir Victor Windeyer at the Twelfth Legal Convention of the Law Council of Australia.

He then referred to the remarks made by Mr. Justice Windeyer as follows:—

> Sir Victor Windeyer said: "The real consideration in my view is that the whole system of negligence actions is outmoded in ordinary accident cases. The actions are utterly unreal. We live in an insurance age, we live in a motorized and mechanical age. People are suffering from accidents which are part of the hazards of the times we live in; they arise not out of and in the course of our employment but out of and in the course of our daily lives . . . The time will come, I am sure, when we will abandon this pretence of a contest between a plaintiff and a defendant, one maintained by one insurance company and the other by another, or one maintained by a trade union or somebody else and the other by some insurance company. We will have some system of assessing the damages by a competent tribunal regularly accustomed to it . . .".

That is the only reference in the address to a tribunal; the rest of it deals with his opposition to litigation based on negligence in the use of motor vehicles. That was the subject of the address, yet the member for Subiaco gave the impression to the House that this legal authority was quite happy to see third party insurance legislation administered by a tribunal, without a right of appeal. Nothing can be further from the truth. It was extraordinary that the honourable member should do that, and it is rather important that I should point out what Sir John Barry had in mind.

The second point I wish to refer to again relates to the remarks of the member for Subiaco. Obviously he scoured the law journals and other references in an effort to find some authority somewhere to support the setting up of a tribunal. He came up with the remarks of Mr. Justice Windeyer and those of Sir John Barry, but apparently he was unsuccessful in finding an authority of any consequence to substantiate his claim that a tribunal is worth while. I find that rather remarkable.

I recall that when the fluoride Bill was before us, the member for Subiaco went to great lengths to tell us that the fact that a few eminent doctors in the world were opposed to fluoridation was of no consequence at all. It is interesting to hear what he had to say when the measure was introduced in 1963.

The ACTING SPEAKER (Mr. Crommelin): I do not think the honourable member can speak on the fluoride Bill.

Mr. GRAYDEN: This reference is strictly in accord with the point I wish to make.

The ACTING SPEAKER (Mr. Crommelin): All right; we will see. The honourable member many proceed.

Mr. GRAYDEN: I quote—

> It is true that there is opposition; and it is fair to say that, in the main, those people in the community who oppose fluoridation of water rely on their professional support from, firstly, individual practitioners in particular professions; and, secondly, one or two professional associations which cannot be classified as national professional associations.
>
> Some of these individuals, on the face of it, appear to be eminent individuals in their particular profession, and no doubt some of them are very eminent. However, even though they could be said to be so eminent, does that prove the point? Surely these people, if their opinions were to be so respected, should have been able to convince the great national professional associations which have supported this proposal. The mere fact that they have not been able to convince the great national professional associations leaves one with a lingering doubt that for some reason or other their opinions are not sound.

That is what the honourable member said in respect of fluoridation. He said that there were eminent men in the world against fluoridation but that was of no consequence because they were relatively few, and if they had had a good case they should have been able to convince the rest

of the men in the profession. However, in this instance he scours the law reports and other references to legal matters to find some eminent legal man who will support his views in regard to the appointment of a tribunal.

Mr. Guthrie: When has there been a professional body that has conducted an inquiry and come to any decision on the set-up now before the Chair?

Mr. GRAYDEN: In this case the member for Subiaco is looking for this legal man.

Mr. Guthrie: Answer the question. Do not run away from it; face up to it.

Mr. GRAYDEN: I do not know what the member for Subiaco is talking about.

Mr. Guthrie: That is typical of you; you do not want to know.

The ACTING SPEAKER (Mr. Crommelin): Order! I am unable to hear the speech of the honourable member.

Mr. GRAYDEN: I want to make the point that the member for Subiaco looked around for a few eminent authorities who would support his view, but if we accept the argument he put forward in this House a few years ago, we can discount what they had to say. We have the Law Society of Western Australia coming up with a unanimous decision—

Mr. Guthrie: No; it was not.

Mr. GRAYDEN: —for an inquiry.

Mr. Hawke: What about putting up the hempen square?

Mr. GRAYDEN: Recently we were circulated with some material from the Law Society of Western Australia. One circular is dated the 27th April, 1966, and signed by Ian Stephenson, for the committee of the Law Society.

Mr. Guthrie: Who was on the committee?

Mr. GRAYDEN: The circular states—

> It is the unanimous recommendation of the Law Reform Committee that the Society oppose the Bill and publicise its reasons for doing so.

I understand subsequently this was discussed by the Law Society and also accepted.

Mr. Guthrie: How much inquiry and research went into it? You quote something of which you do not know the value.

Mr. GRAYDEN: Accompanying this brochure was a letter signed by Mr. L. G. Wood, Secretary of the Law Society of Western Australia. I think I should read this letter, because it will establish the point.

> I attach hereto a copy of a report by a Sub-Committee of the Law Society for your information. This report was adopted by the Society.
>
> I forward the report because the Society feels that the Members of Parliament should know its basic reasons for opposing the proposed amendment to the Act.
>
> Should there be any query connected with the subject matter of the report with which you feel I could assist you I would be pleased if you would get in touch with me.

In those circumstances it is pretty reasonable to assume that if what the member for Subiaco submitted in respect of fluoridation is a sound argument, then those eminent legal men who believe in a tribunal should have been able to convince their fellow practitioners. However, that has not been the case. The Law Society is very much opposed to this proposal. We have also the opinion of the Dean of the W.A. University Law School. He is very much opposed to this also.

Mr. Guthrie: Who is the Dean of the University Law School?

Mr. GRAYDEN: Professor Payne.

Mr. Guthrie: Have you read his article on this subject?

Mr. GRAYDEN: I saw the statement he made to *The West Australian* when this proposal was first suggested. He said that this was without precedent because there was no other country in the world where a tribunal was already in existence. That was the general substance of what the professor said.

Mr. Guthrie: I suggest you read the pamphlet he published some six years ago.

Mr. GRAYDEN: I do not know why, in view of the statement the Professor made to *The West Australian*, the member for Subiaco queried the statement I made. I now want to read an extract from the *Constitution of the W.A. Division of the Liberal Party of Australia*. The objects of the Liberal Party are many, but one in particular reads as follows:—

> To advocate sound progressive and humanitarian legislation and to unite into one movement all electors who believe in a fair deal for every section of the community.

I do not believe that under any circumstances we could call this sound legislation, progressive legislation, or humanitarian legislation. I say that advisedy because the section of the community which this legislation will hit is possibly the most unfortunate section in our community. It consists of those people who are injured in road accidents.

All this legislation will do, in effect, is to ensure that those people will in the future receive less in the way of damages. It has been pointed out that the main objective of the Bill is virtually to stabilise, as far as possible, premiums paid for third party insurance cover, and to prevent increases. However, in the process, of course, without question, people who are injured

in accidents will receive much less than they would had they recourse to the courts. Consequently this legislation conflicts with the constitution of our party. It conflicts with another objective of the constitution which reads—

> To use every Constitutional means to restore the sovereign rights of the State and of the individual and to prevent any further encroachment thereof and to take steps for a satisfactory rearrangement of the financial relationships between the States and Commonwealth.

They are two of the objectives of the Liberal Party and I think this legislation is in conflict with both of them.

I believe we have several satisfactory alternatives. For instance, it has been suggested by someone—and this is a splendid idea—that one judge should be allocated the task of dealing with third party appeals. Were that system adopted, we would, without question, obtain the degree of standardisation which we are so anxious to obtain. There would be no difficulties associated with this procedure. All claims would be heard by one judge and then we would ensure there would be no marked differences in sums awarded, which is the position now, simply because the cases are heard by different judges. I can see no objection to the adoption of such a suggestion, but I can foresee a number of objections to allowing our third party legislation to be administered by a tribunal without a right of appeal.

I think this is a rather amateurish and clumsy attempt to deal with a most complex problem, a problem which has caused concern to the legal profession for many years. Even the Law Society of Western Australia is concerned about this aspect. In the report I mentioned earlier which was circulated to members of Parliament, the Law Society or—more particularly—

Mr. Jamieson: The Law Society adopted the committee's report so virtually it is the society.

Mr. GRAYDEN: Yes. The society made this statement—

> In our view, the objects of any alteration to the existing principles and practice relating to the compensation of injured persons do not appear to have been thought out. Far reaching changes in principle might well be desirable not only as to the mechanics of fault finding but perhaps as to whether entitlement to compensation should be irrespective of fault. The matter of rehabilitation might also be involved. There will certainly be differences of opinion as to the source of the fund from which compensation is to be paid.
>
> We think that the problems are such that they ought to be dealt with by a broadly based representative committee of high standing appointed to consider the submissions which would undoubtedly be made to it by the many and varied interested sections of the community. It seems to us that the proposals create many more problems than are solved.

So here we have the Law Society being acutely conscious of the complexity of this problem and the need for a careful review. In those circumstances I think it would be advisable for us to accept its views and appoint a committee to make a comprehensive study of the problem.

In those circumstances I say once again I am going to support the legislation, but I sincerely hope it will be amended to ensure there is a right of appeal on *quantum*.

**MR. JAMIESON** (Beeloo) [10.38 p.m.]: When because of circumstances beyond my control I took the adjournment of this legislation last year, I was not aware that a controversy in legal and other circles would take place. Indeed, I am agreeably surprised that this legislation has received a thorough scrutiny by those in all sections of the community. This is unusual. Despite the fact that the Minister said he received no complaint from the motorists, their recognised organisation has been very clear and to the forefront in criticising the proposals in this legislation. It is reasonable that a motorist, as an individual, would not object to such proposals until he was confronted with the circumstances which prevailed as a result of their implementation. He would not care very much until he had to face some legal situation. We are in an entirely different position. We have to be responsible for the motorist when he finds that situation exists, and because of that we have to take far more care than the Minister has. He said the legislation is reasonable because no particular motorist has objected.

There has been a number of letters from people who have made a study of this matter—both legal men and others. There have possibly been more letters of recent time since the Minister encouraged people to write, and there possibly would have been more still if it were not for the Federal elections. With due regard for priority, the Press has been giving consideration to the publishing of letters dealing with Federal political matters. However, be that as it may.

We have the proposed legislation before us and to some extent there are worthwhile sections in it; sections which we, on this side of the House, have been attempting to introduce for some years. There is the right of spouse to sue spouse in the case of automobile accidents, and we would be less than foolish if we did not support such improvements to the Act.

However, the possibility of the tribunal being implemented, even with the sug-

gested amendments, is not very encouraging from my point of view, because we have no solid ground on which to work at this juncture.

I made inquiries and discussed this matter with people who had a first-class knowledge of motor vehicle insurance, not only in this State or the Commonwealth, but world-wide experience. I came to the conclusion, strangely enough, that in the matter of compensation, despite all of its ramifications, we are now leading the field and the system operating in this State has no peer anywhere in the western world.

Our motor vehicle third party insurance legislation is so far ahead that many others are inclined to model their thinking on what exists in this State. The member for Subiaco gave an indication—and I go along with him on this matter—that it is perhaps unfortunate that we legislate for compulsory insurance, because it tends to make people careless to a certain extent, as far as third party insurance is concerned. I will instance, without implying that anything was wrong, a personal experience I had when involved in an accident not so very long ago.

So far as I knew, there was no damage to life or limb, yet some few days after the accident the Motor Vehicle Insurance Trust sent me a reminder that I had not reported to them an accident where injury to a person had occurred. Of course, the person involved may have had a check by the local medico, and obviously a claim was made on the insurance trust. This, of course, does happen and I suppose I could have done the same thing because I had several of my children in the car and one of them received a lump on the head. I could have taken my children to the doctor, and likewise claimed on the insurance.

I am afraid people are apt to do this. There is no excess placed on them to make them think before proceeding to get something for nothing. Nobody likes paying insurance premiums, and everybody wants to get something back from the insurance company. Insurance schemes cannot be all cream and no milk; people have to be prepared to pay for the service they get.

I suggest that if the trust wants to do something to improve the finances, it should examine the possibility of requiring that in each claim for damages the first $100 is to be paid by the driver concerned. That should not send anybody to the wall but it would make people very careful in lodging claims because they would want to be sure that they would not be found at fault in a court of law and be responsible for the damages. People would go easy when making claims on insurance polices. If there is a major injury, of course, someone has to pay for that injury.

This is the principal problem we are confronted with with third party insurance. It is not just the little claims. However, I daresay that if one could examine the situation one would find that it is the large number of small claims which is taking finance away from the trust. There are too many of them and insurance companies realise this by attaching excesses to comprehensive policies. Before this excess was applied many claims were made for scratched mudguards, but now a person will think twice before making such a claim. Policies having an excess, require the payment of a certain amount by the insurer, before the insurance policy operates. Those people are more inclined to have small jobs done at their own expense, and are inclined to be more careful.

It is interesting to note that the right of spouse to sue spouse has a rather historic background. We have progressed a long way and the law has changed respecting women's rights. I am advised that prior to 1870 in England, and 1892 in Western Australia, a married woman could not own property, with certain exceptions. As a consequence, most of the laws were founded on that premise. It was thought that there would be little use in a spouse having the right to sue, when the only one that could have property would be the one eligible under the law to hold that property. So it becomes obvious that the situation is one which has been carried over from the days when women's rights were fewer than they are in this day and age.

The abolition of the maximum amount claimable will not do much for the insurance companies. The R.A.C. wrote to the Minister on the 28th June and in that letter pointed out that a very conservative estimate on the part of the R.A.C. was that 80 per cent. of the vehicles on the road already had comprehensive insurance policies. Those policies, of course, do not have the limitation which is in the third party insurance. Here again I instance a case where I doubt very much if anything will come from the realisation of this situation. The 20 per cent. who do not have comprehensive policies, are probably those who are less responsible in the community. Most of us would not dare to take a vehicle on to the road without having a comprehensive policy because of all the problems we could be faced with.

My suggestion to the Government is that if it really wants to do something about this, seeing that only 20 per cent. of vehicles are not covered by comprehensive insurance policies, the Government could legislate to make it compulsory to have a comprehensive policy. That should overcome the difficulty which exists. It is true that third party insurance over the period from 1959-60 to 1963-64, a period of five years, showed a loss of £1,245,690.

As against that, the motor vehicle insurance cover in this State—and by this I mean all kinds of insurance other than third party—showed a profit of £4,735,000. After deducting the loss of third party insurance, a balance was still left to the total insurers in this State which provided a profit of £3,489,310. Therefore, it can be seen that if this 20 per cent. were brought in compulsorily, then of course to a great extent the financial problems would be solved. It does not look as though it would be a hard problem to induce these others to have this compulsory insurance. The suggestion here is that the amount would be less than 20 per cent., but if there is 20 per cent. then, as I said, this would go a long way towards solving the financial problems.

In this regard there is another financial problem with which the trust is involved. I think the member for Gascoyne dealt with it the other night. A lot of these insurance companies do not play the game with the trust—they do not pay their just amount to the trust. The companies which are dealing with motor vehicle insurance should all be compelled—and this could only be effected by compelling them in law in the same way as we compel third party insurance—to pay their share of the trust's responsibilities. If this were done, some of the problems would be solved.

It does not seem to me that it would be desirable to change the style of tribunal or judgment centre for the awards of damages, but I think it would be desirable to rearrange the financial aspect of the whole situation. Of course, this is a different proposition altogether.

Therefore, I cannot see any really good reason why the Government should proceed with the Bill as it now stands. As I have indicated, of course, there are certain good points about it, but even with the amendments suggested, I am still of the opinion that we should not try to gallop too far ahead. We are far enough ahead with our third party legislation now. Let us consolidate our position by forcing all those people who are not now paying a just amount to pay a just amount into the trust. Let us consolidate this into a reasonable financial undertaking.

Here again, suggestions were made—possibly in the Press, but certainly there were some rumblings and I do not know whether the Minister was involved in them or not—that the whole third party scheme could collapse around our ears because of the fact that it was in the red and if those companies which were subscribing to it started to pull out, then of course it would fold up completely. If one examines this position from the companies' point of view, one will find that to pull out is more than they dare to do, because if the scheme failed, all of these smaller companies—and the larger ones for that matter—which are delving into motor vehicle insurance would face great financial difficulties.

In recent times, there was a case in this particular State of the insurers being responsible for the payment of $150,000 in one hit. As I have said, this would be too great a financial problem for the companies and they would go into the red straight away. Therefore, they cannot afford the lack of protection which co-operation under this scheme affords. As I have said, it would be more than they dared do to pull out of the scheme. It is an insurance which protects them because of this co-operative basis.

Nobody in the insurance game seems to like very much the question of third party guarantee. It is not the lucrative type of policy which brings in money to the companies as some other types of insurance do. As I pointed out, even the comprehensive policy is far more lucrative and there are many other phases of insurance in which these companies would prefer to be involved rather than bothering with third party insurance. However, obviously if these companies are going to give insurance to their clients, then the clients are going to want coverage for third party. If the clients cannot get it through the Motor Vehicle Insurance Trust, they are going to want it from the insurance office which is handling their other insurance underwriting. Of course, if it is not available, they will shop around and change until they find a company which will provide it. As a consequence, there would be turbulance within the insurance business if the companies were unable to subscribe this contribution now.

The companies would not be able to get away from this situation. This is one of those matters which, once a company is tied into it, it is there for keeps whether it likes it or not. I imagine we will have third party insurance with us for a long time to come.

When introducing the Bill originally last year, the Minister mentioned Saskatchewan. I was rather interested in Saskatchewan, because the information I had received—as I earlier informed the House—had indicated to me that Western Australia was in the forefront with this type of insurance. When I found out a little more about Saskatchewan, I gave that idea away completely because I am sure the Government of this State would not be inclined to introduce the comprehensive universal insurance scheme that is operating in Saskatchewan.

One is covered there by insurance regardless of how the claim arises. It does not matter if one breaks a leg in an automobile accident; it does not matter whether one is injured in a football game; and it does not matter whether one is injured in the street—in general, it does not matter how the injury occurs, the individual receives similar compensation for it. This is a very different kind of scheme and it is not one of great moment. On this view, I agree with the member for Perth.

I mention this because I think, in the course of earlier legislation on workers' compensation this session, I said I could not see where the schedules of the Act which proclaimed hard and fast pronouncements on workers' compensation were just and equitable. I agree it is necessary to consider some requirements according to different circumstances. For example, if a person is a breadwinner and he is in his late 20s and has perhaps three, four, or five children, then his requirements and his family's requirements are greater than those of a person who is practically at the end of his working days and is about 65 years of age. These two entirely different kinds of people with such different responsibilities could receive the same kind of injury.

If a schedule is attached, it is because of the need to try to apply consistency or uniformity. The only real way this can be achieved would be to attach a schedule of amounts to be paid and, as a consequence of course, the schedule would have to be fairly reasonably associated with, I suppose, that which applies to workers' compensation. There would be people who would be very hardly done by.

I mentioned the case of the breadwinner who needed finance more than the person who is older and has less responsibilities. As the Workers' Compensation Act stands at present, the 65-year-old man is paid the same amount of money for the loss of an arm—or whatever it might be—as the younger person whose life might be completely altered and his family affected because of a similar loss. To my way of thinking, there is no equity or fairness in such a situation.

Mr. Guthrie: The Saskatchewan scheme allows the fellow to sue for the excess.

Mr. JAMIESON: Yes, but in the main, Saskatchewan has the initial basic scheme.

Mr. Guthrie: Yes, the initial scheme.

Mr. JAMIESON: Well, I agree with that scheme, and if it were proposed in Western Australia, I would be wholeheartedly behind it because I think it is something which is needed in the community. The community is having to pay too much money because of the lack of working power on the part of a person who is hurt at sport—I have mentioned this before, because it is a hobbyhorse of mine—or in the street, or at work. There is the same economic loss to the community and, because of that, they should all be looked after in a similar fashion. However, we have not advanced that far as yet. We must remember that the Saskatchewan scheme was only brought about by the royalties the State at one time received from oil, with the result it was able to introduce all kinds of social services and reforms which no normal State could do. If we get an oil bonanza, or something like that, we would certainly be able to improve such social services.

I imagine that if we indulge in that sort of thing we would have the Minister for the North-West berating us because these were social services of which the Grants Commission would not have a bar, if we got involved in them as a State undertaking and they were showing a loss. If there was plenty of money we could do all sorts of things for the general public, as evidenced by the Government of Saskatchewan where there has been so little change that nobody knows when the Government was last changed.

Mr. Davies: In 1962.

Mr. JAMIESON: Because of the situation there, no alteration has been made over the years by way of social reform. I suggest we have not got to the stage where we can introduce comprehensive insurance in this State. I wonder why the Government did go ahead with a proposition like this. The only reason which comes out of the voluminous information I have is the fact that the Motor Vehicle Insurance Trust thought one instance of a grant to be excessive; it was not happy with the situation, and it possibly prevailed upon the Government to take some action to prevent the possibility of that position recurring.

The excessive grant to which reference has been made was in connection with a widow who was awarded $150,000 damages. But we must remember that this was not assessed on the loss of the woman's husband, but on the loss of the income which she could have expected from her husband had he lived. This gets back to the question on which the member for Perth and I agree.

Whether such a huge amount was warranted I cannot say, but when we investigate such cases we usually find that the people who receive these huge amounts are those who can afford to do without them anyway. Is the tribunal to be put in the position of having to assess the position which arises where a widow whose husband was affluent is to receive a large amount at his death despite the fact that he carried his own insurance, and she is not hard pressed? We realise, of course, that nothing can bring her husband back.

Then, of course, we have the case of the person who has never had very much and whose husband gets killed. He had not brought in a big income, and yet the assessment would be lower. That would not be at all just. Accordingly we must analyse the situation in which we are placing this tribunal. I think the situation will be just hopeless. Has the Minister had any complaints from motorists about the present system? Motorists are not very interested in the situation until they become involved and are given legal advice that they cannot get damages because the legislation has been amended and that something quite different applies

at the time. It is not fair and we should keep away from that sort of thing.

Mr. Durack: The interesting thing about that large claim is that there was no appeal, and also it was due to the fact that Parliament provided that no account could be taken of the insurance money received.

Mr. JAMIESON: The woman in question was left very well off. I do not know how the trust will work these things out. I now come to the tribunal. There is no clear indication as to what the qualifications of the nominee members shall be except that one shall not have been something for a certain period. This is a negative qualification we are providing. I should imagine that experts will be appointed to the tribunal, one of whom will need to be an expert on insurance matters, and another on traffic accidents. The latter could be selected after going through the Traffic Department files and assessing the person who has experienced the greatest number of accidents. He would probably be able to advise as to what course to adopt.

If a trust is to be established I suggest that a specific body like the R.A.C. and the insurance people should be permitted to have nominees on the trust. This, of course, will probably get back to the stage of there being two insurance nominees, because the R.A.C. itself dabbles in insurance. We will then have the situation where there is a majority view on the insurance side and, as the member for Subiaco said, no judge would be inclined to proceed in such circumstances where he was ruled by assessors looking after the interests of the insurance companies rather than those of the appellants before the court.

Mr. Guthrie: A doctor could be a nominee.

Mr. JAMIESON: He may or may not be and expert on insurance matters. I would rather have a doctor advising on the question of injuries, and what should apply in that respect. This leads us to the position where in some cases it takes a long time to get the complaints before the court.

For example, we can take the case of the member for Cockburn. I understand there can be no finality in his case at this stage because no doctor is able to assess the exact degree at which his injuries will settle down. This is understandable, but it has been going on for four years, and it could take some time yet. As the member for Perth indicated, when cases are plain sailing they seem to come before the court fairly quickly. It would seem that this situation has not caused the move by the Government.

It seems to me the only reason for it is that the Motor Vehicle Insurance Trust, having been caught once, has brought pressure to bear by representation through various insurance bodies, saying that it cannot afford to carry this burden and suggesting that it be placed in a situation analogous to workers' compensation, where a certain amount is paid for an eye, a certain amount is paid for a leg, and so on. But this will not work.

The Government should get back to something which it knows works well, and which has worked well over the years. Another aspect which must be considered is that according to information I have received from my legal friends, the courts in this State have never been known to be excessive in their amounts, because invariably when an appeal is taken to the High Court damages are increased. This almost invariably occurs.

It might be said that of the rate of damages applying in the Eastern States—in New South Wales certainly—clearly indicates that the judiciary is not acting in any irrational manner; that it is not doing any damage to the insurance companies by the amount it allows. In the main they are very fair in their determinations. Insurance assessors are past-masters at looking into the future and saying how much will be needed by way of finance; they are the people who are setting the premiums, and they are the ones who have created the position with which the Government is now faced.

If the Government had another look at the situation and forced everybody to take comprehensive vehicle insurance, the problem would be ironed out, as would the financial difficulty of the trust. The trust may continue to expect comprehensive insurance to be taken out. I think it would prefer that, because, as I indicated earlier, third party insurance is not as remunerative as it could be. The trust might socialise its losses and capitalise its gains on other forms of insurance rather than be involved with the problems that might exist.

I have already dealt with the number of complaints in the Press. A number of people have been outspoken on this matter and one only needs to go through the files since this question was mooted to see that most of the complaints have been made by people who know what they are talking about. The Minister quoted three instances of people who felt this sort of tribunal should be set up; but most of the people the Minister referred to were victims of crimes of violence, workers' compensation cases, and such things. This matter is different altogether.

The State is carrying on a situation to the extent where it will award an amount for compensation because the tribunal has made a determination. This is not a matter of assessing damages for an individual who has lost property but for one who is maimed in some way. So the Minister's reference to the people he mentioned does

not amount to much. The only authority the Government hangs its hat on was supported by Mr. Eric Edwards of the Law School at the University. He seems to be in favour of almost every view the Government puts forward. The only thing he has not favoured is the anti-hanging legislation introduced by the member for Balcatta. He had very strong views on this. But nearly everything else has been supported by him; he has done almost everything for the Government except take out endorsement for a safe Liberal seat.

Anyway, the quotations of Mr. Edward's attitude deal with a matter that he was rather interested in—a tribunal to determine claims in connection with crimes of violence. That is not the same, because what he was dealing with concerned compensable situations. So we can disregard that.

I would suggest the Govenment be tolerant towards any moves to squash the setting up of the tribunal at this stage. Let us take out the better portions of the proposed legislation and see if some compulsory comprehensive scheme can be brought in next year, after discussions with the insurance companies that constitute the Motor Vehicle Insurance Trust; and also consultations in regard to compelling by legislation, if necessary, all those other insurance companies not now subscribing their share, to put in towards the cost involved in third party insurance.

We are a State that is to the forefront in this type of insurance, so do not let us slip back by trying something that may or may not work. We know the present system works; so let us get behind it and see its finances are put on a more even keel.

**MR. MITCHELL** (Stirling) [11.17 p.m.]: I do not wish to weary the House for long on this matter, and I do not intend to become involved in a learned dissertation on the aspects covered by my colleagues, but I rise to support the Bill and point out what appears to me to be a very unfair system that has grown up in the matter of third party insurance.

At the outset, I would like to say that as far as I am aware, the necessity for this Bill has not arisen by any demands by the Motor Vehicle Insurance Trust, but rather as a result of the active demands by members of this House and members of the motoring public who have approached us at different times to do something about making third party insurance fairer and more equitable than it is at the present time.

Mr. Jamieson: What is unfair about it?

Mr. MITCHELL: I heard the member for Subiaco state that it has been said third party insurance is a means of making the drivers of motorcars more reckless than they should be. Of course, we have to remember that whilst we think of third party as insurance against accidents, that is not the case. The driver of the vehicle has insured himself against a claim by a third party. That is perhaps one of the reasons why the member for Subiaco is, perhaps, right—negligence is encouraged.

In effect, if a person rides in a motor vehicle with a driver who takes all the precautions and sees that his vehicle is in a good roadworthy condition and that driver by some accident injures the other person, then that person has no claim, because negligence cannot be proved. However, if a person rides with somebody who is careless with his vehicle and careless in his manners on the road, then that person has a claim against him because of his negligence.

One of the points these people were really concerned about was that some alteration was necessary to provide for spouse *versus* spouse. We believe in that; it is only right that spouse should have the right to sue spouse.

Mr. Tonkin: When did you start to believe that?

Mr. MITCHELL: These things cannot be introduced unless some effort is made to average out the claims of the general motorist. I am surprised, in fact, that the Opposition—or some members of it—should oppose this matter and consider it is unfair. I believe the unfairest part of third party insurance is this: We all pay exactly the same premiums; but the member for Beeloo just quoted a case where somebody was killed and his widow received something like £150,000.

Mr. Jamieson: Dollars.

Mr. MITCHELL: I am sorry; $150,000. If a person with a low-earning capacity is killed, although he has paid the same premium, his widow or next of kin has no chance of collecting an amount like $150,000 for damages. I believe that is the unfairness of the whole situation.

Mr. Jamieson: You are advocating a schedule like workers' compensation?

Mr. MITCHELL: I believe that the people who can afford to pay for big accident premiums should do so outside of third party insurance. I do not believe it was ever intended that third party insurance should be a cover to take over the whole of the insurance liabilities of every person who drives a motorcar.

As I have said, all motorists pay the same premiums and should have a right to expect the same amount of compensation as is received by a person in a higher income group. I believe it has been said that this tribunal is going to lessen the amount of damages paid. If the tribunal does the right thing, I think it will average the payments and take into account the fact that all premiums are the same.

If one of us wanted to insure his life for £2,000 he would pay a premium for that amount; and if he wanted to insure for £10,000, then he would pay for that amount. However, in regard to motor vehicle insurance, we all pay the same rate. Some people receive enormous amounts of damages because they have a higher earning capacity than the average motorist, who, because he is on a lower income bracket, receives less damages. That is one of the reasons why we require a more stable system.

I think perhaps we have reached a stage where, in order to make it possible for all people to continue their insurance, we should have a schedule of damages similar to workers' compensation, or something of that nature, and those people who wanted a higher rate of cover would pay an extra premium. On that basis I support the Bill.

Mr. Jamieson: They do it now. They take our comprehensive policies.

Mr. MITCHELL: Yes, but it is not a third party policy.

Mr. Jamieson: It still covers part of the third party.

Mr. MITCHELL: I support the Bill because it is a sincere attempt to bring third party insurance into line with modern thinking. We cannot have all the benefits this will confer on certain people without taking some risk.

The right of appeal from the decisions of the tribunal is a matter that has been mentioned. It occurs to me that people on the lower strata would not be able to afford to take an appeal against the decisions of the tribunal; it would be only those people in better financial circumstances who could take an appeal to the Supreme Court, because of the cost involved. I think the number of appeals that would be taken to the Supreme Court would be very limited on the ground I have mentioned. I support the Bill and hope it is given a second reading.

**MR. TONKIN** (Melville—Deputy Leader of the Opposition) [11.25 p.m.]: The basic provision in this Bill is to substitute a tribunal with judicial power for the courts in the assessment of damages. Up to date nobody seems to have paid much attention to the fact that under Commonwealth law such a tribunal could not be established under the Constitution, if the Commonwealth desired to establish one, because it is laid down if a board or authority with judicial power is to be established outside the courts, it shall be established upon the basis of the establishment of a court.

In my view, the cost of this substitution will be very considerable. It will be an extra cost for administration over and above what exists at the present time; and that will have to come from somewhere. Who is going to pay it?

Mr. Jamieson: The 50 per cent.

Mr. TONKIN: It will be paid for by a reduction in damages. One of the obvious reasons for the provision of this tribunal is not so that fairer decisions will be given, as the member for Stirling seems to think. It is to save money in the pay-out. At whose expense? At the expense of those who are injured. So, boiled down, this is a proposition to place an additional burden on the unfortunate people who suffer as a result of motor accidents.

I am not going to accept the statement of anybody that even under the existing system a person who is unfortunate enough to be injured in a motor accident gets adequate compensation for the injury and the economic loss sustained. I have not seen a single case where damages have been awarded where I personally have considered that the person getting the damages has been adequately compensated for the loss sustained or from the loss of earning power, expenses involved, and the various other difficulties which arise from accidents. That being so, if this is to result in reduced compensation, then who is to be advantaged by it?

Surely we should not be contemplating a proposal which is going to deny real justice to the unfortunate people concerned. That is what this measure will do. So, personally, I can see no reason for supporting a proposition for the establishment of a tribunal. I am deeply concerned about it because I anticipate that the purpose behind this is to reduce the payments by way of damages; and there is to be no appeal against the decision. The obvious reason for that is because it is believed that because of the substantial reduction in the payments made for damages, there would be many appeals if they were allowed.

As it is most likely that those appeals would be upheld, then the main purpose of this legislation would be destroyed inasmuch as it would not be possible to keep down the total damages to be paid. Surely this is not the way to deal with this situation; to deprive people who are entitled to damages of something to which they are entitled because it is costing too much to give it to them. Surely we ought to be able to devise a system which will enable the spreading of the burden of costs in such a way that the damages to be paid can be properly paid.

I am not prepared to agree to the substitution of the tribunal, upon this basis, for the existing arrangement which enables the court to determine what damages shall be paid, and which provides for an appeal in those cases where it is considered the damages are not adequate.

The member for Stirling submitted the most remarkable argument against appeals. He said it is only the rich people who can afford to make appeals, and that

would result in inequality because the poor man cannot afford to appeal. The member for Stirling implied that we should not allow appeals to anybody; they should be cut out altogether.

I wonder how far he would be prepared to go with the cutting out of appeals in the case of land resumptions, if the Government proposed to compulsorily resume his farm and he had to accept the price offered. Would he then think it was right that he was not entitled to appeal because there could be some people who could not be in it? I am certain he would not. He would have an entirely different view on the need for appeals in circumstances of that kind.

I was somewhat amused by the statement made by the member for Stirling, when he said that the Government believes in the principle of spouse being able to sue spouse, because in 1964 there was an opportunity for the members of the Government to express an opinion on this question. The Hon. E. M. Heenan introduced a Bill in the Legislative Council for the purpose of enabling the law to be altered so that spouse could sue spouse. When that Bill came to the Legislative Assembly, members here were given an opportunity to vote on it.

It is very interesting to read the names of those who voted against the proposition, and I propose to quote them from page 3307 of the 1964 *Hansard*. The question was put and a division taken, and those who voted with the noes were—Mr. Bovell; Mr. Brand; Mr. Burt; Mr. Court; Mr. Craig; Mr. Dunn; Mr. Gayfer; Mr. Grayden; Mr. Guthrie; Mr. Hart; Mr. Hutchinson; Mr. Lewis; Mr. I. W. Manning; Mr. Nalder; Mr. Nimmo; Mr. O'Connor; Mr. Runciman; Mr. Wild; and Mr. O'Neil.

Mr. Bovell: A finer body of men never lived.

Mr. TONKIN: That list includes every member of the Government, with the exception of the member who has come in following the appointment of the then Minister for Works to the position of Agent-General. So it rings a bit hollow to emphasise how the members of the Government believe in this principle of spouse suing spouse. That is only thrown in to make up weight. The real purpose behind this legislation is the appointment of a tribunal with no right of appeal against its decisions.

The other trimmings are put in for the purpose of endeavouring to encourage the waverers to believe that the Government is genuine in its desire to do these things. This is two years after the unanimous vote against the proposal to allow spouse to sue spouse. We now have a Bill brought in by the Government to permit that very thing and if it were earlier in the session and there was more time, it would delight me to read some of the comments which members on the Government side made on this proposition.

Mr. May: Like the closing of the banks on Saturdays.

Mr. TONKIN: So the situation boils down to this: The real purpose behind the legislation is to cut down the amount of damages being awarded to injured people, and to make sure that steps cannot be taken to increase the amount. The right of appeal is to be denied. I shall watch with a good deal of interest those who vote to deny an appeal in such circumstances.

This humanitarian plank which is supposed to be in the Liberal platform, will suffer a very severe crack I think when we put it to the test of the question whether an appeal should be allowed to a person who believes he has been awarded a sum far below that to which he is entitled. That is the crux of this question.

So I am prepared to vote for the second reading because the Bill contains some provisions which I have previously advocated and which I desire to see made. But if no alteration is made to the Bill in Committee with regard to the proposal to establish a tribunal, I shall certainly vote against the Bill at the third reading.

**MR. NALDER** (Katanning—Minister for Agriculture) [11.38 p.m.]: It has been interesting to listen to the views expressed by members who have contributed to the debate on this Bill. I do not think it is necessary—and I do not think that members would expect it—for me to reply to all the points which have been made. The Leader of the Opposition did not speak at great length, but he made reference to my second reading speech and indicated that he was very doubtful of the value of the legislation proposed in this amending Bill.

Possibly with the exception of some speakers, the same attitude was expressed by the majority of speakers who indicated support of the second reading, but who were not at all happy with the suggestion of there being no right of appeal.

This legislation has been before the House since last session, as we are all aware. It was introduced with the object of allowing people to have a look at the proposals submitted, and in that time the Minister for Local Government—who has been responsible for this legislation—has spent considerable time and effort to bring forward a measure which would be acceptable and which would help the whole system which operates under the motor vehicle third party insurance legislation.

From the discussions which have taken place, there is no doubt that many opinions have been expressed as to how an effort should be made to solve this problem. It is quite pertinent to suggest that so many suggesions have been made as to indicate that there is a problem existing in this field. I would suggest that no-one

has got the complete answer; and I would also suggest that this Bill has been a move in an endeavour to see whether or not an improvement can be made in the present set-up. Some members, including the Deputy Leader of the Opposition, are inclined to believe that the present set-up is reasonably satisfactory. As a matter of fact, I think the Deputy Leader of the Opposition mentioned that there has not been any case, as far as he is concerned, where the payment of damages has been fair and reasonable.

It is not for me to argue on that point, and I doubt if anyone of us, without full knowledge of all the points involved in any of the cases, would be prepared to go so far as to say that any of the damages paid were not fair and reasonable.

The problem we are facing in this legislation is to try to evolve a system whereby some uniformity is introduced with reference to the payments which are made. We believe that this should be tried to see whether or not it will succeed in the manner in which we believe it will.

I would remind members again that there is no doubt, from the contributions which members have made, that not one of them has come up with any suggestion that might solve the situation.

Mr. Evans: What about a system of having one judge of the Supreme Court handling all the cases?

Mr. NALDER: There might be some merit in that suggestion. However, the Government believes that the appointment of a tribunal brought into being for no other purpose than to consider claims made for damages under the Motor Vehicle (Third Party Insurance) Act should at least be given a trial. No doubt, in years gone by, Governments of all kinds have endeavoured to introduce legislation for the purpose of experimenting and giving it a trial, and this is the view of the Government in this instance. The Government believes an effort should be made to try to remedy the present situation with which we are faced.

I believe that unless something is done now the situation will drift to a stage where it will be more difficult to take corrective action unless a radical change is introduced. If it is considered that premiums are insufficient to provide the amount of money being paid out in damages, it is necessary that we look closely into the position to consider what will be the ultimate end in this situation. I suggest the existing problem could develop to a point where, unless some uniformity is introduced, premiums will reach a level to make it almost impossible for an ordinary person to own and maintain a motorcar. This is a factor which we should watch closely, and I do not think it should be brought into this field of discussion, when the modern way of living should allow any individual to own a motorcar.

The member for Subiaco put forward some suggestions which he thought should be given consideration. The amendment suggested by that honourable member is quite acceptable because it will assist to clarify the position relating to appeals.

Mr. Evans: Only on the question of law.

Mr. NALDER: Yes, that is so. The member for Kalgoorlie said it was necessary to clarify the problem relating to the uniformity of awards, with a view to eliminating any delays in the hearing of claims. His suggestion could help to eliminate the delays which occur at present. I would point out that the tribunal, in carrying out its duties and responsibilities, will have no diversification of interests and will not be obliged to consider any other type of claims except claims made in relation to third-party insurance. This alone could assist to a great extent in eliminating any delay that occurs in the hearing of claims.

As for the tribunal spending a great deal of time travelling to various parts of the State, under the legislation it would have authority to permit cases to be heard by magistrates at various country centres.

Mr. Evans: Don't you think that if that were done it would mean goodbye to the standards?

Mr. NALDER: No, I do not think so. The tribunal, in my opinion, would hand over to a magistrate for his consideration only those cases which were fairly clear-cut. Once the tribunal is established, magistrates, especially those stationed in the far-flung parts of the State, would watch the progress of the tribunal with interest, study the decisions made by it, and would thereby be fully informed on the type of case a magistrate would be asked to handle.

I appreciate the willingness of members to agree to the second reading of the Bill. I sincerely believe a determined effort has been made to improve the existing situation. In view of the attitude adopted by various members, the debate can be carried on in Committee when dealing with the provisions in the various clauses of the Bill. Other members spoke in opposition to the right of appeal being waived. In reply, I believe that unless we carry out the provisions contained in the legislation, we will have great difficulty in giving support to the object for which the legislation is designed. I know the opinion of those members who spoke in opposition to this particular provision is that they consider it is possible the whole operation of the system could break down.

Nevertheless, I believe the legislation should be given a trial. If it does not succeed in the way the Government believes it should, we could then give consideration to bringing forward further

amendments during the next session of Parliament. One member said that all claims would not necessarily be heard by the tribunal. I have already dealt with that point, and I consider I have given a reasonable answer. The Deputy Leader of the Opposition was critical of the change of view of members of the Government. However, I am sure that on many previous occasions we have seen a change of view by members on the other side of the Chamber. I have not had the opportunity to look back over the records, but I have no doubt that this has occurred.

I see no reason why, in this instance, the legislation should not contain the provision of spouse *versus* spouse merely because a different view was held two years ago. If, in the interim, further consideration has assisted the Government to change its view on the situation, there is no reason why it should not express its change of view in legislation of this nature. As I have already said, I feel quite sure that Opposition members have expressed one point of view at some time or another and then, later, when consideration has been given to a similar proposal, they have had a change of heart in the light of experience. This has happened time and time again. The Deputy Leader knows full well that this has occurred when consideration has been given to many amendments brought before this House.

Mr. Tonkin: I cannot imagine any member of the Labor Party wanting to adopt any policy endorsed by the Liberal Party.

Mr. NALDER: That has nothing to do with this point. An endeavour has been made, by this legislation, to remedy the existing situation, because it is considered there are many cases which will be more justly dealt with when the legislation comes into operation.

Mr. Evans: It only goes to show that what the Labor Government said a few years ago was correct; namely, that changes would have to be made.

Mr. NALDER: The refusal of the Government to accept an amendment that was suggested in previous years is no reason why it should not accept it now. Members should appreciate that this has been done, perhaps, after further consideration has been given to the question, and when the value of the points of view has become evident in the light of experience, but which was not evident when the points of view were first expressed. I see no purpose in pursuing this point, although the Deputy Leader of the Opposition takes every opportunity of doing so.

I appeal to the House to give the legislation a trial, because it represents an honest attempt to solve an ever-growing problem. If the legislation is given a fair trial, action can be taken in the future, in the light of experience, to make any necessary improvements to it.

Question put and passed.

Bill read a second time.

*In Committee*

The Chairman of Committees (Mr. W. A. Manning) in the Chair; Mr. Nalder (Minister for Agriculture) in charge of the Bill.

Clauses 1 to 9 put and passed.

Clause 10: Section 16 repealed and section substituted—

Mr. NALDER: It has been found necessary to make an amendment to this clause because, as it is now worded, a judge could receive two salaries whilst occupying one position. I move an amendment—

> Page 9, line 20—Insert after the word "shall" the passage ", if a judge, receive his salary pursuant to the Judges' Salaries and Pensions Act, 1950, and, if not a judge shall".

Amendment put and passed.

Mr. TONKIN: Has the Government made any estimate of the probable cost of this tribunal? It seems to me that the appointment of a registrar will be required, a number of offices will be needed to accommodate several officers, and the cost could run into thousands of dollars.

Mr. NALDER: The cost of establishing this tribunal will be the responsibility of the trust.

Mr. Tonkin: That will be to the detriment of the people who are awarded damages.

Mr. NALDER: Other similar tribunals are in a similar position, and the cost of administering it will be part and parcel of the whole set-up.

Mr. Tonkin: Has the Government any idea of the total cost?

Mr. NALDER: I cannot give an exact figure of what the total cost will be. The staff required will be kept to a minimum, but, of course, the salaries of the three members of the tribunal will have to be met, and also those of a number of clerks, no doubt.

Mr. Tonkin: How many? Twenty?

Mr. NALDER: I do not think half that number will be required. I cannot give an exact estimate of what the cost will be, but staff numbers will be kept to a minimum.

The cost will be borne by the trust. In other legislation the cost of administration is also borne by the organisation. It would be very difficult for me to indicate what the cost of setting up the tribunal will be, but no doubt the responsible Minister has given attention to this aspect.

Mr. TONKIN: This seems to be a prime example of reckless financing. Here is a proposal which is seriously advanced as being important; and I would have thought that the Minister contemplating making

a change in the procedure would have called for an estimate of the costs involved. It is apparent from the answers given by the Minister that he has no idea as to how big the organisation will be, or what the cost of the salaries, buildings, and rent will be. The total could run into so large a figure as to impose a very heavy burden on the people who will have to carry it.

Are we to accept the situation that this tribunal is to be established without the slightest idea of the expense involved? No wonder the Government is in the financial mess it is in! I protest very vigorously against this type of legislation. No businessman would think of making a change without first having an estimate of the cost involved. No wonder some people go bankrupt. I have never heard anything like it.

Mr. Bovell: You should listen to what Mr. Calwell has to say.

Mr. Nalder: I read the Premier's notes in this morning's newspaper.

Mr. Bovell: Did you read the notes of the Leader of the Opposition?

Mr. TONKIN: I read the notes of the Premier in which he referred to the proposals of Mr. Calwell, and said that they would involve an increase in taxation. The Premier himself was greatly involved in imposing the largest increase in taxation we have experienced, yet he had the hide to point out that the proposals of the Federal Leader of the Opposition would involve an increase in taxes.

I would like to hear some defence from the Treasurer of this inevitably costly proposition, and of the attitude of the Government that it does not have to worry about the cost because the trust will meet it. If the trust has to meet the cost then it will mean that the people who are awarded damages will receive less.

This change should be resisted until we are given some reliable estimate of what it will cost and how it will affect the people who are concerned—either as injured persons receiving awards for damages or as motor vehicle owners who are called upon to meet the cost through increased premiums.

Mr. NALDER: I draw attention to the provision in clause 12 which states that two-thirds of the cost will be borne by the trust, and one-third by the Treasury. I have some information here which can be described as a rough estimate of the cost for setting up the tribunal. The estimate is in the vicinity of $100,000. The actual amount could be a little less or a little more.

Mr. JAMIESON: This clause should receive complete condemnation. In part it sets out what the qualifications of the nominated members shall be, and it also provides for disqualification of those members. One of the disqualifications is death. Of course, there is no such disqualification for the chairman, and if he dies I do not know how the tribunal will carry on. I strongly oppose the setting up of the tribunal, in view of the fact that no indication has been given that the existing position will be improved. The only information we have been given is that the setting up of the tribunal will be very costly, and it is possible the increased cost will account for the 50 per cent. increase in third party insurance.

Clause, as amended, put and passed.

Clause 11 put and passed.

Clause 12: Section 16B added—

Mr. NALDER: I move an amendment—

> Page 11—Insert after new subsection (2) the following subsection to stand as subsection (3):—
>
> (3) Where the Chairman of the Tribunal is a judge, his salary appropriated by the Judges' Salaries and Pensions Act, 1950, shall, without affecting his rights under that Act, be taken into account as part of the costs mentioned in subsection (1) of this section and the appropriations from the Public Account shall be adjusted, accordingly.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 13 to 16 put and passed.

Clause 17: Section 16G added—

Mr. GUTHRIE: From what the member for Perth said during the second reading presumably he will move for the deletion of proposed subsection (1). I have an amendment on the notice paper to delete certain words on page 15, line 17. Will the member for Perth have to move his amendment first?

The CHAIRMAN: I suggest the member for Perth move for the deletion of words up to the word "Tribunal" in line 17.

Mr. DURACK: I propose to move for the deletion of proposed subsection (1), but your suggestion, Mr. Chairman, is that I move for the deletion of the words in that proposed subsection up to and including the word "Tribunal" in line 17. If my amendment is agreed to I will then have to move for the deletion of the remaining words in that subsection. I move an amendment—

> Page 15, lines 16 and 17—Delete the passage "(1) The decision, determination or judgment of the Tribunal".

I have already advanced the reasons for moving the deletion of these words. The object is to ensure there will be a full right of appeal from this tribunal to the Supreme Court. This right of appeal will not be limited as is intended under the provision in the Bill.

Mr. EVANS: I fully support this amendment although I would have preferred the amendment to delete all words from line 16 to line 22, and including the proposed subsection designations. However, you, Mr. Chairman, have indicated to the member for Perth the amendment you wish him to move first. I hope the Committee will agree to the amendment.

Mr. NALDER: I cannot agree to this amendment. The decision of the tribunal as to *quantum* is to be final. This, in the opinion of the Government, is the vital clause in this legislation.

Mr. Tonkin: That is just what I said.

Mr. NALDER: If this amendment were agreed to, we would remain where we are at present. If an appeal were made against the tribunal's decision and brought before a court or a judge, that would be the end of the value or the authority of the tribunal.

We would find ourselves remaining in the situation that we are in today and, for that very good reason, there would be no value at all in establishing the tribunal suggested by the Bill. Because of that point, I oppose the amendment.

Mr. CROMMELIN: I want to support the amendment. I was most impressed in this regard by the remarks made by the member for Subiaco. My understanding of his comments is that he was endeavouring to explain to the Committee that with the coming into being of this new tribunal, a standard would probably be set as time went by which would somewhat stabilise the amount of damages and possibly stabilise the amount of the claims. I think he concluded his remarks by saying that only a quantity of damage will be left uncovered by the right of appeal.

Mr. Guthrie: A *quantum!*

Mr. CROMMELIN: Yes, a *quantum*. However, he said that with the new method of assessment, errors will seldom occur. Knowing the member for Subiaco and his judgment in this respect, I accept that statement. I accept the proposition, because he has stated it, that errors will seldom be made in regard to the amount of damages. Therefore my suggestion is that it is very evident there will be very few appeals against it and if this is the case, I am quite certain it would do no harm to have the right of appeal.

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

Ayes—20

| | |
|---|---|
| Mr. Brady | Dr. Henn |
| Mr. Crommelin | Mr. Jamieson |
| Mr. Davies | Mr. Kelly |
| Mr. Dunn | Mr. Marshall |
| Mr. Durack | Mr. Norton |
| Mr. Fletcher | Mr. Rhatigan |
| Mr. Graham | Mr. Sewell |
| Mr. Grayden | Mr. Toms |
| Mr. Hawke | Mr. Tonkin |
| Mr. W. Hegney | Mr. May |

*(Teller)*

Noes—16

| | |
|---|---|
| Mr. Bovell | Mr. Lewis |
| Mr. Brand | Mr. Mitchell |
| Mr. Cornell | Mr. Nalder |
| Mr. Court | Mr. O'Connor |
| Mr. Craig | Mr. O'Neil |
| Mr. Evans | Mr. Rushton |
| Mr. Guthrie | Mr. Williams |
| Mr. Hutchinson | Mr. I. W. Manning |

*(Teller)*

Pairs

| Ayes | Noes |
|---|---|
| Mr. Curran | Mr. Hart |
| Mr. Rowberry | Mr. Gayfer |
| Mr. Bickerton | Mr. Burt |
| Mr. Hall | Mr. Nimmo |
| Mr. Moir | Mr. Elliott |
| Mr. J. Hegney | Mr. Runciman |

Amendment thus passed.

Mr. DURACK: I move an amendment—

Page 15, lines 17 to 22—Delete the words following the word "Tribunal" down to and including the word "section,".

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 18 to 21 put and passed.

Title put and passed.

*Report*

Bill reported, with amendments, and the report adopted.

## BILLS (2): RETURNED

1. Land Tax Act Amendment Bill.
   Bill returned from the Council with requested amendments.
2. Lotteries (Control) Act Amendment Bill.
   Bill returned from the Council without amendment.

## ADJOURNMENT OF THE HOUSE: SPECIAL

MR. BRAND (Greenough — Premier) [12.30 a.m.]: I move—

That the House at its rising adjourn until 12.40 a.m. today (Friday).

Question put and passed.

*House adjourned at 12.31 a.m. (Friday)*