Subsection (2) of Section 20B reads—

> Upon any application pursuant to the provisions of section thirteen of this Act being lodged by a lessee (other than a lessee under notice to quit or to terminate the tenancy of premises) with a Fair Rents Court or an inspector (as the case may be) for the amount of the rent of the premises to be determined, a notice to quit or terminate the tenancy shall not thereafter be issued in respect of those premises until the expiration of a period of three months from the date of lodgment of such application.
>
> Provided that where the amount of the rent determined by the Court is less than eighty per centum of the amount of the rent being charged or requested by the lessor at the date of the application as aforesaid, a notice to quit or terminate the tenancy shall not be given to any such lessee until after the expiration of a period of twelve months from the date of that determination of the rent by the Court.

Subsection (3) of Section 20B reads—

> Upon the hearing by the Supreme Court or a Local Court of any summons for the recovery of possession of premises (other than premises in respect of which there subsists a lease entered into after the thirty-first day of December, one thousand nine hundred and fifty) the Court hearing such summons may at its discretion, on account of any reason of severe hardship which may be proved by the lessee, suspend the operation of any judgment or order thereon for such period not exceeding three months from the date of the hearing as the Court may determine.

The effect of the amendment made by the Legislative Council is to take from that Act the two subsections I have just read, so that protection will no longer exist. It does not exist now because the provision in the legislation was only to operate until the 31st August of this year. As that date has passed the protection is no longer available. I move—

That the amendment be agreed to.

Question put and passed; the Council's amendment agreed to.

Resolution reported, the report adopted and a message accordingly returned to the Council.

*House adjourned at 5.58 p.m.*

# Legislative Assembly

Tuesday, 1st October, 1957.

CONTENTS.



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

## ASSENT TO BILLS.

Message from the Governor received and read notifying assent to the following Bills:—

1, Nurses Registration Act Amendment.

2, Stipendiary Magistrates.

3, Honey Pool Act Amendment.

4, Audit Act Amendment.

5, Trustees Act Amendment.

6, Country Areas Water Supply Act Amendment.

7, Coal Miners' Welfare Act Amendment.

## PAPERS—RAILWAYS.

*Suspension of Assistant Commissioner Lee.*

The PREMIER: Today the Governor-in-Executive Council approved of the suspension of Assistant Commissioner Lee. I move—

> That the papers and statements in connection with the matter lie on the Table of the House.

Question put and passed.

## QUESTIONS.

### TRANSPORT.

*Wheat and Super Cartage, Lake Grace-Hyden Area.*

Mr. PERKINS asked the Minister for Transport:

(1) (a) Who is the successful tenderer for cartage of grain from each siding on the discontinued railway line—Lake Grace to Hyden; and

(b) For back-loading of superphosphate to farms?

(2) What is the price in each case for carting wheat and other grain and superphosphate?

The MINISTER replied:

(1) (a) In respect of Hyden, Karlgarin and Pederah—P. Munday and A. J. Shreeve; in respect of Pingaring, Dornock and Kuender —A. J. Shreeve.

(b) The same operators are to carry grain into the railway and superphosphate from rail to farms.

(2) Sixpence-halfpenny per ton mile for all grain and superphosphate except where superphosphate is back-loaded against forward loading of wheat, in which case the rate to be charged by A. J. Shreeve is 6d. but P. Munday has not quoted due to the impracticability of loading superphosphate on his vehicle while equipped for haulage of grain in bulk.

### TRAFFIC.

*Taxis Plying for Hire and Prosecution.*

Hon. A. F. WATTS asked the Minister for Transport:

(1) In view of his answer to my question on Thursday last when he stated that he had no knowledge of any taxi driver being prosecuted recently and convicted of an offence of "plying for hire," will he take steps to peruse the "Daily News" newspaper on Monday, the 23rd September, 1957, and advise me if the report on the front page thereof that Ernest Charles Lester was fined £3 for "plying for hire off his rank" is correct?

(2) If such report is correct, will he advise, bearing in mind his answer to my questions on Wednesday, the 25th September, that if there is no definition of "plying for hire" in the Traffic Act, and no regulation has been gazetted in respect of same, under what law can a taxi driver be prosecuted and convicted of "plying for hire"?

The MINISTER replied:

I have perused the report which is not correct, and accordingly a taxi driver was not prosecuted for "plying for hire."

### IRON ORE.

*Quality and Quantity, Bungalbin.*

Mr. O'BRIEN asked the Minister for Mines:

(1) Has the Mines Department any data which would indicate quantity and quality of iron ore at Bungalbin?

(2) How far is Mt. Bungalbin from Koolyanobbing?

(3) Does the Mines Department intend drilling the area for confirmation of the extent of iron ore?

(4) Is there likely to be any pyrite in the Bungalbin deposit?

The MINISTER replied:

(1) The department recently had a geologist make a reconnaissance inspection of the Bungalbin deposit, and his assessment of iron ore reserves is 32,750,000 tons of inferred high-grade iron ore above plain level, varying from 61.25 per cent. iron to 66.56 per cent. iron.

(2) Approximately 45 miles north from Koolyanobbing.

(3) Not at this stage. Further geological work is planned for the near future.

(4) This would only be ascertained by exploratory drilling.

## LAMB, MUTTON AND HOGGET.

*Comparative Prices, Eastern States and W.A.*

Mr. LAWRENCE asked the Minister for Agriculture:

What are the comparative prices regarding the prices for purchase in Western Australia and the Eastern States of the following beasts per pound:—

(a) Spring lamb; summer lamb;

(b) wethers: 2-tooth, 4-tooth, full-mouth;

(c) ewes: 2-tooth, 4-tooth, full-mouth;

(d) hogget?

The MINISTER replied:

Information is not available regarding the prices of carcass meat of all the various groups mentioned. The following statement gives a comparison of prices of trade lines sold at Midland Junction with prices at capital cities in the Eastern States:—

MEAT PRICES.

*Comparative Western Australian and Eastern States Prices, at per lb., as at 31st August, 1957.*

| | | Midland Junction. | Adelaide. | Brisbane. | Melbourne. | Sydney. |
|---|---|---|---|---|---|---|
| | | d. | d. | d. | d. | d. |
| Spring Lamb | Light | 24½— 26½ | 21 — 24 | 27 — 32 | 30 — 36 | 32 — 38 |
| | Heavy | 22 — 24 | 19 — 21 | no quote | 19 — 25 | 24 — 26 |
| Trade Wether Mutton | Light | 12½— 14 | 9 — 10 | 17 — 19 | 12 — 13 | 11 — 16½ |
| | Heavy | 10 — 12 | 7 — 8 | 16 — 18 | 11 — 12 | 11½— 15½ |
| Trade Ewe Mutton | Light | 10 — 12 | 7 — 8 | 14 — 15 | 11½— 12 | 9½— 13½ |
| | Heavy | 7½— 9½ | 5 — 6 | no quote | 10 — 11 | 9½— 12½ |
| Hoggett Meat | Not quoted | .... | .... | .... | .... | .... |

## STATE ELECTRICITY COMMISSION.

*(a) Support for Loans.*

Mr. HEARMAN asked the Treasurer:

(1) Does the State Government take any action to support State Electricity Commission loans on the local market along the same lines as the Commonwealth Government supports Commonwealth loans?

(2) Is he aware that small amounts of S.E.C. loans are not readily saleable on the local market?

(3) What steps, if any, has the S.E.C. taken to support its own loans on the local market?

The MINISTER replied:

(1) As the State Electricity Commission is able to purchase securities which come on the market and are not taken up by other buyers within a reasonable time, it is not necessary for the State Government to give support to these loans.

(2) No.

(3) By the repurchase of its own securities from sinking funds.

*(b) Gas Connections at Albany.*

Mr. HALL asked the Minister for Works:

(1) Can he advise if the State Electricity Commission has made a drive to interest Albany residents in the matter of gas connections?

(2) Is a salesman employed to get customers and sell appliances, or is this left to the maintenance men with the hope that they will carry out this work?

(3) If the answer to No. (2) is "No," will he investigate the possibilities of engaging a salesman to boost the sales of gas appliances?

The MINISTER replied:

(1) The State Electricity Commission, in co-operation with commercial firms, has already arranged a major sales drive for gas appliances during November. A census has been taken, lectures and demonstrations have been given, and suitable pamphlets distributed.

(2) No salesman is employed. Commission officers, experienced in consumer relationship, do this work.

(3) See answer to No. (2).

## RAILWAYS.

*(a) Conditions of Employment for "Red Caps," etc.*

Mr. CROMMELIN asked the Minister representing the Minister for Railways:

(1) Are the porters known as "Red Caps" at the Perth Central Station paid a wage by the Railway Department?

(2) If so, how much and what are their weekly hours of work?

(3) If not, under what conditions are they permitted to earn a living at the railway station?

(4) Has the Railway Department any control over what hours they shall work and at what times they shall be available?

(5) Is he aware of the fact that on most Sundays none of these men are available for the Trans train?

(6) Can, and will, he take steps to see that these men's services are available to cater for people on the Trans train, especially elderly passengers?

The MINISTER FOR TRANSPORT replied:

(1) No.

(2) Answered by No. (1).

(3) They are licensed by the department at an annual fee of 10s. to handle passengers' luggage at a prescribed scale of charges.

(4) They are required to be available for arrival and departure of all country trains, Monday to Saturday.

(5) No.

(6) An examination of the position will be made.

*(b) Proposed Administration.*

Mr. COURT (without notice) asked the Premier:

In view of the suspension of Assistant Railways Commissioner Lee, can the Premier indicate what machinery is proposed for the administration of the railways, as presumably one commissioner cannot administer the system under the existing legislation?

The PREMIER replied:

This matter is receiving the close attention of the Government. The suspension of Mr. Lee will not become absolute until such time as each House of Parliament has had the requisite period in which to take any action it might decide to pursue in the matter.

## TRUST FUNDS.

*Use to Finance Deficits.*

Mr. HEARMAN asked the Treasurer:

Can he say to what extent trust funds were used to finance deficits as at the—

30th June, 1950;
30th June, 1951;
30th June, 1953;
30th June, 1954;
30th June, 1955;
30th June, 1956?

The TREASURER replied:

Yes. The particulars are—

| June 30th. | £ |
|---|---|
| 1950 .... .... .... | 736,066 |
| 1951 .... .... .... | Nil. |
| 1953 .... .... .... | Nil. |
| 1954 .... .... .... | Nil. |
| 1955 .... .... .... | 69,034 |
| 1956 .... .... .... | 2,392,554 |

## COMMISSIONER OF NATIVE WELFARE.

*Delaying Inquiry.*

Mr. GRAYDEN asked the Minister for Native Welfare:

Will he delay any inquiry into allegations made in respect of the Commissioner of Native Welfare until such time as this House has had an opportunity of debating the nature of the inquiry which it is proposed to hold, or at least until members who wish to do so have an opportunity of dealing with the matter on the Estimates?

The MINISTER replied:

As the inquiry is concerned only with the hon. member's allegation of improper conduct in respect to—

(a) failing to keep a record on departmental files of letters written on official notepaper;

(b) removing papers from departmental files; and

(c) "doctoring" departmental files to present the department's point of view,

I can see no reason for delaying it.

## SWAN RIVER CONSERVATION.

*(a) Creation of Statutory Body.*

Mr. COURT asked the Minister for Works:

When can legislation be expected for establishing a statutory body to conserve the Swan River, as announced on the 23rd July, 1957?

The MINISTER replied:

In the near future.

*(b) Introduction of Legislation.*

Mr. COURT (without notice) asked the Minister for Works:

Can I take it from his answer to my question dealing with the conservation of the Swan River, that the legislation will be introduced this session?

The MINISTER replied:

If I had been in a position to give the hon. member precise information, I would have done so. The Bill is at present in the hands of the draftsman and I am unable to judge with certainty when the drafting will be completed and Cabinet approval given to the Bill. I confidently expect that that will be in time to enable the Bill to be introduced in the near future.

## TRAFFIC.

*(a) Northern Outlets.*

Mr. COURT asked the Minister for Transport:

(1) Is consideration being given to additional outlets for traffic proceeding to and from the north of the city, and in which locations?

(2) How soon, and in what form, is relief expected?

The MINISTER replied:

(1) Consideration is being given to providing an additional outlet for traffic near the West Perth station.

(2) When traffic flows increase sufficiently to warrant the expenditure, a series of bridges are proposed to carry traffic over Wellington-st., the railway and Roe-st.

*(b) Perth City Council Parking Scheme.*

Mr. COURT asked the Minister for Transport:

(1) Is he yet able to indicate a date when the Perth City Council parking scheme (including meters) will commence to operate?

(2) In what areas will it function initially, and how long will it be before other areas are developed and will function?

The MINISTER replied:

(1) No.

(2) The area in which the scheme will function has not been determined.

*(c) Examination of Council's Plans.*

Mr. COURT asked the Minister for Transport:

(1) With reference to my questions on the 18th September, 1957, have an application and plans been submitted by the Perth City Council for the parking projects referred to?

(2) If so, when will a decision be made and announced?

(3) Will he reconsider the answers to the 18th September, 1957, questions, and particularly parts (2) and (3) of those questions?

The MINISTER replied:

(1) Yes.

(2) The plans are now receiving technical examination and a decision will be announced as soon as this examination is finished.

(3) Answered by No. (2).

## INTERSTATE SHIPPING.

*Effect of Improved Service on Local Trading.*

Mr. COURT asked the Minister, representing the Minister for Supply and Shipping:

(1) Has the proposal for improved shipping from the Eastern States to Western Australian outports been examined in the light of potential increases in imports from eastern Australia to the disadvantage of Western Australian manufacturers?

(2) If so, what is the result of the examination, and what steps are proposed to provide competitive and efficient transportation to enable Western Australian manufactures and merchants to gain and maintain the markets?

The MINISTER FOR NATIVE WELFARE replied:

(1) The *hon. member* is advised that it would be unconstitutional to interfere with the free flow of interstate trade and commerce.

(2) Answered by No. (1).

## FISHING INDUSTRY.

*Provision of Slipway at Bunbury.*

Mr. ROBERTS asked the Minister for Works:

(1) In what year did the fishermen operating from Bunbury intimate that a slipway at Busselton would satisfy their requirements?

(2) If the fishermen concerned, at the present time, make representations in the near future for a slipway in Bunbury direct to the Minister, will he give favourable consideration to such a project?

The MINISTER replied:

(1) 1948.

(2) Decisions of the Public Works Department in connection with the provision of facilities for fishermen are dependent upon favourable recommendations from the Fisheries Department and availability of loan funds.

## FRUIT-FLY CONTROL.

*Government Payments, Inspectors, etc.*

Mr. OWEN asked the Minister for Agriculture:

(1) What finance has been made available by the Government towards the cost of fruit-fly control in each year since 1950-51—

(a) by payment to maintain the staff of fruit-fly inspectors;

(b) by subsidies to the three community baiting schemes now in operation?

(2) How many fruit-fly inspectors have been employed in each of these years?

The MINISTER replied:

The particulars of the financial assistance by the Government to fruit-fly control for the period from 1951-52 to 1956-57 are as follows:—

| Year. | 1 (a). Contributions to Orchard Registrations and Fruit-Fly Section. | | | 1 (b). | Total. | 2. Number of Fruit-Fly Inspectors. | |
|---|---|---|---|---|---|---|---|
| | Through Trust Fund. | Salaries of Permanent Officers. | Miscellaneous. | Subsidies to Fruit-Fly Baiting Schemes. | | Full-time. | Part-time at Kalgoorlie. |
| | £ | £ | £ | £ | £ | | |
| 1951–52 .... | 5,600 | 2,380 | 298 | 3,216 | 11,494 | 17 | .... |
| 1952–53 .... | 6,825 | 2,714 | 51 | 3,354 | 12,944 | 17 | .... |
| 1953–54 .... | 4,189 | 2,797 | 212 | 3,300 | 10,498 | 17 | .... |
| 1954–55 .... | 3,250 | 2,889 | 258 | 3,276 | 9,673 | 17 | 1 |
| 1955–56 .... | 3,500 | 3,296 | 104 | 3,300 | 10,260 | 16 | 1 |
| 1956–57 .... | 4,000 | 2,410 | 309 | 3,300 | 10,019 | 16 | 1 |

## WHOLEMILK.

*Solids-not-Fat Deficiency.*

Mr. I. W. MANNING asked the Minister for Agriculture:

What period of time is permitted wholemilk producers to correct the quality of their milk when a deficiency in solids-not-fat is detected and a prosecution is launched?

The MINISTER replied:

Generally speaking, it is usual to give producers an opportunity to correct any deficiency before a prosecution is launched. Once a prosecution is launched, no time for correction can be given.

## KALGAN RIVER BRIDGE.

*Completion and Cost.*

Mr. HALL (without notice) asked the Minister for Works:

(1) When is it expected that the new Kalgan bridge at Albany will be completed?

(2) What is the estimated cost of the bridge?

The MINISTER replied:

I thank the hon. member for giving me prior notice of his questions. The answers are—

(1) In approximately 12 months time.

(2) The estimated cost is £39,300.

## BREAD.

*Goldfields Trading, Restrictive Practices.*

Mr. EVANS (without notice) asked the Minister for Labour:

(1) Further to my question relative to restrictive trade practices in the sale of bread on the Goldfields, which was on the notice paper on Thursday, the 26th September, has he seen an article that appeared in "The Kalgoorlie Miner" of Thursday, the 26th September, on page 2, under the headings of "Bread Deliveries Cease Monday. No Serving from Vans in Streets. New Agreement may be Signed by Bakers?"

(2) Will the Minister acquaint the Commissioner of Unfair Trading with the contents of that article?

The MINISTER replied:

(1) I have seen a copy of the article referred to.

(2) The matter has already been submitted to the Commissioner of Unfair Trading.

## RAILWAYS ROYAL COMMISSION.

*Tabling of Reports.*

Mr. COURT (without notice) asked the Premier:

Are any progress reports of Royal Commissioner Smith to be tabled in Parliament or is it the intention of the Government to await the completion of his inquiries before tabling the documents?

The PREMIER replied:

The second interim report was tabled this afternoon. The first interim report has not been tabled but action is being taken in the court against ex-Assistant Commissioner Clarke and that action is based upon the first interim report made available by Royal Commissioner Smith in connection with this investigation.

## FACTORIES AND SHOPS ACT AMENDMENT ACT, 1956.

*Availability of File re Non-Proclamation.*

The MINISTER FOR EDUCATION: I think it was on Thursday last that the member for Blackwood asked the Premier if he would table a certain file dealing with the amendment to the Factories and Shops Act in connection with the retail hours of petrol stations. That file is in action, and I will make arrangements with the Secretary for Labour for the member for Blackwood to peruse it at his convenience.

## CRAWLEY BATHS.

*Furnishing of Report.*

Mr. ROSS HUTCHINSON (without notice) asked the Premier:

In view of the rapid approach of summer, will he endeavour to expedite the furnishing of a report that he has promised to obtain pertaining to Crawley Baths?

The PREMIER replied:

Yes.

## BILLS (2)—FIRST READING.

1, Metropolitan (Perth) Passenger Transport Trust.

Introduced by the Minister for Transport.

2, Electoral Districts Act Amendment.

Introduced by Hon. A. F. Watts.

## BILLS (2)—THIRD READING.

1, Cemeteries Act Amendment.

2, Betting Control Act Continuance.

Transmitted to the Council.

## BILL—LAND AGENTS.

*Message.*

Message from the Lieut.-Governor received and read recommending appropriation for the purposes of the Bill.

*Second Reading.*

**THE MINISTER FOR JUSTICE** (Hon. E. Nulsen—Eyre) [4.53] in moving the second reading said: This is a most important Bill; but in reality it is not as big as it looks, because it is more or less a consolidating measure. The Land Agents Act was passed in 1922, and it has been amended on numerous occasions since then, the last of the amendments having been made in 1953. It provided, among other things, for the setting up of a body known as the Land Agents Supervisory Committee, a title descriptive of its functions. Since that committee has been functioning, experience has shown that many amendments are desirable to remedy deficiencies and to clarify obscurities in the existing legislation. The committee has suggested amendments based on related legislation in South Australia and Victoria.

As the legislation now stands, it needs revision because of piecemeal amendments made from time to time. Because the proposed amendments are numerous and substantial, it is considered desirable to repeal the existing legislation and re-enact it with the proposed amendments incorporated. That is the function of the Bill. In the draft the greater part of the existing legislation is retained.

The measure is designed to come into operation on a proclaimed day so that a convenient date may be selected, having regard to the currency of existing licences and bonds, all of which inure for the purpose of the proposed legislation. The tenure of office of existing members of the supervisory committee is not disturbed; and the provisions relating to those offices, and the filling of them, are continued in the Bill.

Land agents are required to be licensed under the new measure, as is the case under existing legislation; but—

(a) The meaning attributed to the expression "property transaction" has been amplified to include transactions which land agents carry out, because the existing legislation is out-moded in this regard.

(b) The meaning attributed to the expression "land agent" has in consequence been broadened.

(c) The functions of hearing applications for licences, and related matters, are now the responsibility of the committee instead of courts of petty session because consistency of decision and action is sought. It was found that courts were inclined, and understandably so in view of the many and varied matters listed for their attention, to grant a licence almost as a matter of course, if prescribed formalities had been complied with. The committee, however, has the advantage from experience gained in its supervisory capacity, of knowing something of the circumstances relating to applicants and their applications.

In addition to investigating the character of an applicant, the committee will be enabled to examine the ability and experience of applicants in handling land transactions and their knowledge of the elementary law relating to title to real estate, the Transfer of Land Act, and the duties of land agents. The committee will be entrusted with the duty of disciplining land agents, and will have the power of cancelling and suspending licences. Offences against the Act will still be heard by courts of petty session.

In addition to the licensing of land agents, provisions in the Bill require land salesmen employed by land agents to be registered by the committee; also managers of companies and of absentee land agents. This is similar to legislation in other States and renders available to the committee some degree of supervision and corrective control over those employees of land agents who induce, or seek to induce the public to enter into property transactions.

The annual licence fee for a land agent is now £7 10s.; and the amount of the bond, £2,000. The Bill increases these amounts to a maximum of £15 and £5,000

respectively. The maximum annual licence fee, and the amount required of a manager or land salesman by way of bond are £1 and £500 respectively. If, instead of paying premiums to insurance companies for a bond, an applicant prefers to deposit securities with the Treasurer, the Bill permits him to do so.

In order to afford greater protection to the public, authority is conferred on the committee to freeze banking accounts of land agents and cause money in those accounts to be paid over to the Treasurer as custodian. This permits the committee, if it has reason to believe a land agent is in difficulties with his trust accounts and has committed defalcations, to prevent the defaulter from becoming more involved and making further defalcations with respect to any trust moneys under his control. This is necessary because the committee may have good grounds to suspect that a land agent is in difficulties, and yet the public may go on handing trust moneys to him. It is essential that the committee should be in a position to protect the public by freezing the bank account of a suspected land agent.

The provisions of the existing legislation relating to the audit of the accounts of land agents are repeated in the Bill, with the addition of numerous safeguards and a power for the committee to institute surprise check audits and inspections. At present there is only an annual compulsory audit, and the intention of the surprise check audits and inspections is not to shut the stable door after the horse has bolted.

Further provisions in the Bill preclude a land agent from profiting by dummying. The intention is to prevent him from buying a property placed in his hands for sale at a price less than that he knows a buyer is willing to pay, selling it to that buyer, and pocketing the difference, as well as charging his client commission on the sale.

The measure also seeks to preclude a land agent from advertising other than in his own name. The purpose of this is to prevent agents from appearing as members of the public willing to buy or sell property whereas in fact they are only fishing for business. This has frequently caused annoyance to the public, particularly those who did not wish to deal through land agents and who might have answered advertisements thinking they were from genuine inquirers.

The Bill ensures that if an agent does advertise, the advertisement will make it clear that he does so as an agent. Right of appeal against all decisions of the committee is also conferred, and the Supreme Court is made the appellate authority. There are other amendments which confer powers to promulgate regulations in respect of qualifications of land agents, land salesmen and managers; also in respect of rates of commission, formation and use of forms of contract, matters of procedure, etc.

Through the experience gained by the advisory committee, the intention is to tighten up considerably on land agents. Members will recall cases where these people have been in default to the detriment of their clients. One such case ran into thousands of pounds, because there was only an annual audit; and although there was suspicion, there was no means of checking the position. The provisions in this Bill, however, will freeze the accounts of such land agents and will allow inspections to be made.

Hon. A. F. Watts: Who is going to appoint the chairman of the supervisory committee?

The MINISTER FOR JUSTICE: He will be appointed under the Act as has been done previously.

Hon. A. F. Watts: Who by?

The MINISTER FOR JUSTICE: I am not too certain.

Hon. A. F. Watts: The Bill does not provide who is going to appoint the chairman.

The MINISTER FOR JUSTICE: How was he appointed in the first place?

Hon. A. F. Watts: I assume the Governor is going to do it, but it is not in the Bill.

The MINISTER FOR JUSTICE: I am not too certain as to what the position is, but I will have the matter investigated. The Crown Prosecutor had a good look at the Bill and he assured me that it was quite in order. The chairman has already been appointed, and this has been in existence for a couple of years.

Hon. A. F. Watts: You have to reappoint him under this Bill.

The MINISTER FOR JUSTICE: This measure is more or less a consolidation of the old Act with amendments.

Hon. A. F. Watts: You are repealing the existing Act.

The MINISTER FOR JUSTICE: Yes; but the existing Act is incorporated in this Bill, with a new amendment. I do not know the exact position in regard to it; but I am certain that the measure will be of great assistance to the public, and it has been brought about as a result of the experience of the advisory committee. This committee has done an excellent job under the Act. All the measure seeks to do is to tighten up the position in relation to land agents; but at the same time, it will not be unfair to any of those who have been operating under the present Act.

The Premier: Doesn't power exist in Subclause (9) of Clause 9?

The MINISTER FOR JUSTICE: I am not too sure of the position. But there must be power in the measure; otherwise the present advisory committee could not have been appointed, and it would not have had a chairman. I would be surprised if the Crown Prosecutor had overlooked this matter, particularly as he is the chairman of the advisory committee. I move—

That the Bill be now read a second time.

On motion by Mr. Court, debate adjourned.

## BILL—MARKETING OF POTATOES ACT AMENDMENT.

*Second Reading.*

Debate resumed from the 26th September.

**MR. HEARMAN** (Blackwood) [5.7]: I think this is a Bill with which the House could agree—in general principle, at any rate. The idea behind the measure is to endeavour to block a gap that has developed, as it were, in the legislation. The principle to which the House must give attention is whether or not we are to have a potato marketing board that functions efficiently. If we accept the idea that we should have a potato marketing board, then I think it is necessary, and our obligation, to ensure that that board has the necessary legislative support to enable it to function efficiently and properly.

It may well be questioned by some people whether a board is needed at all; there are those who might suggest that we would be better off without such a board. I think, however, that both schools of thought would agree that if there were a state of affairs worse than either having a board or not having a board, it would be one in which there was a board that was not able to function efficiently and which by virtue of its inability to do the job for which it was intended, created injustices which none of us would like to see.

It has been fairly clearly demonstrated over the years that this industry has benefited from the functioning of the board, which really operates more as an authority for the regulation of production and marketing than in the sense that most potato marketing boards function. The board itself does not trade in potatoes at all; and in spite of the criticism that we hear of that body, I think that by and large we must concede, if we face the facts fairly, that the state of affairs that has existed since the board has come into operation is preferable to that which prevailed before it functioned. I refer of course to the period before the last war.

The Minister made some reference to the fact that the potato growing acreage had practically doubled. That would indicate that the set-up was satisfactory to the growers. The support of the growers for the retention of the Potato Marketing Board, as evidenced at the various referendums held, indicates that the Minister was on sound ground when he claimed that the board had done a fair job on behalf of the growers.

So far as the consumers are concerned, a good many complaints have been made. It may be of interest to those who criticised the board to know that the consumption per head in Western Australia is higher than in any other State of Australia. The average consumption of potatoes for Australia is about 112 lb. per head per annum, but in Western Australia the average is in the vicinity of 130 lb. To people who think of potatoes in terms of starchy diets, it may be of interest to learn that potatoes can be used in a slimming diet, as is shown in the booklet available at the Potato Marketing Board office.

Generally speaking the supply of potatoes to consumers in this State has been more satisfactory than in the other States. In assessing this situation the geographical conditions under which Western Australia operates should be borne in mind. This State is a very considerable distance from any of the other States; here there is no border problem as exists in the Eastern States. For these reasons the legislation in Western Australia has functioned more satisfactorily.

There was little complaint about the legislation until last year, when an abnormal situation developed, which might exist only once in a lifetime. The aftermath of the situation has created the need for the legislation contained in the Bill. Parliament should face up to this situation resolutely. It should realise that if this board is to continue to function as in the past, steps should be taken to block up the legislative loophole which has developed.

The board is often criticised on many accounts, including the quality of potatoes. Although that aspect might not have a direct bearing on the Bill, the quality is a matter of great concern to consumers. The responsibility for ensuring the high quality of potatoes supplied to the public rests substantially with the Department of Agriculture, but that does not mean that the Potato Marketing Board is not interested in quality. The final arbiter in regard to this matter is the Department of Agriculture.

I agree with those who say that the present arrangements made for the inspection of potatoes are not entirely satisfactory. From the point of view of both the producer and the consumer, it would have been more advantageous if more inspections had been undertaken in the

country districts. It is a great pity that the Department of Agriculture is unwilling or unable to make the officers available to carry out inspections in the country.

It has always occurred to me that an inspector living in a potato-growing district is bound to possess some knowledge of the growers who are prone to produce potatoes in an unsatisfactory condition; and of those who, for reasons beyond their control—such as floods—are in need of greater supervision to ensure that their potatoes are up to the required standard.

It appears to me that many of the poor quality potatoes reaching the markets can be stopped at the source, before being railed to Perth. That is a much more preferable method than to allow poor quality potatoes to be sent to Perth and reconditioned at great expense; or, alternatively, railed back to the growers. The Government should give some consideration to that point, and I hope the Minister will give us some information thereon. Inspection of the quality of potatoes at the source rather than at the Perth yard would be advantageous to all parties.

While dealing with the subject of quality, I would point out that many of the complaints have arisen because some retailers are mixing potatoes purchased on the blackmarket with those purchased through the board; in other words, they are mixing the undersized potatoes from the blackmarket with the standard potatoes acquired through legitimate channels. Naturally, all retailers say that they have purchased their supplies from the board; but I know it has been the practice on the part of some retailers to secure a small proportion of small potatoes. This practice was quite common before the advent of the board. Retailers found that in weighing up small lots, of one stone or half a stone, they had to give their customers overweight because they had no potatoes less than 3 oz. in weight; but by keeping a percentage of small potatoes, they were able to supply the correct weight purchased more accurately.

I am certain that some of the complaints regarding the quality of potatoes can be traced to blackmarketing. It is obvious that any grower selling through legal channels is able to foist some quantity through blackmarket channels. The Department of Agriculture should give consideration firstly to the need for more country inspections of potatoes; and, secondly, to making efforts to stamp out blackmarketing. If that is done, some progress will be made towards supplying the public with better quality potatoes.

This legislation is primarily aimed at the retailer, and the person who acts as the go-between between the grower and the retailer. The activities of the go-between should be investigated to the fullest extent, because he is mainly responsible for the blackmarketing of potatoes. By far the greater majority of growers who have supplied potatoes through illegal channels, have done so because purchasers arrived on their properties in motor-trucks. They were asked what potatoes were available for sale; they were shown a handful of £5 notes; then they were offered £2 or £3 below the board price for first quality potatoes. That was how the greater majority of such transactions were carried out. The potatoes were then loaded on to the motor-trucks and taken away.

Such purchasers acquired potatoes illegally, and they had to sell them illegally. They approached the retailers with those blackmarket potatoes and offered them at a slightly lower rate than the board price. The only cost incurred in that type of transaction was cartage. It seems desirable that those people should be apprehended and prosecuted. Those are the ones who are not playing the game, and who constitute the greatest menace in this industry.

The legislation will at least provide some machinery for bringing such people to book; and they are the people on whom the board should concentrate as much as on the retailer. I have no sympathy for the retailer who is looking for it both ways, just as I have no sympathy for the grower who is endeavouring to sell his produce on the blackmarket. I would point out that a great many of these growers who do market illegally, do not want to see the board done away with—few do—because they realise it is only the stability brought about by the board which provides the level of blackmarketing.

For that reason, some growers are wanting it both ways; and, by the same token, the retailers who are prepared to take advantage of blackmarketing are equally wanting it both ways. They want the wholesale price determined by the Potato Marketing Board—which in itself creates a firm retail price—and then they want to take advantage of that firm price to benefit themselves through illegal transactions. I feel that neither the go-between nor the retailer is deserving of any sympathy in this matter.

The last clause in the Bill deals with the £20 irreducible minimum penalty. It has been suggested to me that this is rather harsh; but I would point out that the growers themselves, through the Potato Growers' Association, are quite satisfied with this provision being in the Bill, and many have asked for it. They realise that there is no situation worse than one in which a premium is placed on breaking the law.

The £20 minimum fine is about two-thirds of the cost of a ton of potatoes, which is not a large amount by comparison with the prices potatoes have been fetching over the last few years; and it seems to me that if the growers have asked

that such a penalty be imposed upon those who break the law, we should be prepared to give them assistance to keep their house in order, as it were.

I know it could be thought that a man might be fined £20 minimum for what could only be a technical breach. I know that is a possibility; but, on the other hand, we have had some extremely small fines imposed in the past two or three years by magistrates upon people who have perhaps benefited to the extent of hundreds of pounds by illegal transactions.

The Bill generally is one that can be supported. There are one or two points which other members will probably take up, such as the interpretation of certain passages of the legislation and the question of unbranded containers. I understand the Bill will exempt single-bag potatoes, which are under 10 stone; and it is not intended to take action against anybody holding stocks of less than a single bag, or against a grower giving a bag away. I do not think there is any intention to penalise these people; but rather is it the intention of the legislation, and the desire of the industry, that people who openly set out to flout the spirit and principles of the legislation, should be brought to book. I support the second reading.

**MR. I. W. MANNING** (Harvey) [5.25]: I support the second reading conditionally. Prior to the troubles of last year, which were brought about by the very high prices offering for potatoes in the Eastern States, the industry here was run very largely on a goodwill basis.

The Minister for Agriculture: Speak up; I cannot hear you!

Mr. I. W. MANNING: The Potato Marketing Board enjoyed the goodwill of practically all producers in the industry, and things ran along reasonably smoothly. Last year, however, because of the shortage of potatoes in the Eastern States and the high prices offering, there was some defection from the marketing system in this State. I believe—and I said so last year—that the defection was brought about by more than one reason.

Firstly, it was caused by the high prices offering; but many growers were prompted to take advantage of that situation because of the severe losses which they had suffered, as individuals, over a number of crops. It is quite easy to understand that when they had suffered repeated losses, they were well behind financially, and were easily tempted to take advantage of the high prices offering.

I feel that at that time they were prompted to take this action because they felt that they had been let down by the Potato Marketing Board, which had shown too little concern for the producers and had taken too much interest in the consumers. The producers believe that had the board, through its marketing channels, taken the potatoes and exported more tons than it did to the Eastern States, it would have obtained the advantage of high prices; the money would have gone back into the pool operating at the time; and growers would have benefited accordingly.

The Minister for Agriculture: Things would have been in a bad way last year without the board.

Mr. I. W. MANNING: Possibly, yes.

The Minister for Agriculture: There is no "possibly" about it.

Mr. I. W. MANNING: I am not quarrelling with the Potato Marketing Board. In my view we should have the board; and when I say I support this legislation, I do so because I believe that it will have the effect of preserving an orderly marketing system. However, I want to take this opportunity of making a few comments, as I think it is necessary to get this legislation in its right perspective; because the troubles in the industry at the present time are the outcome of those experienced last year, when the growers were tempted to export to the Eastern States.

I believe that the board can, through its marketing channels, send more potatoes east; and by that means it will not leave the gate wide open for the producers to send them. That would be more satisfactory all round, because it would be done in a controlled manner. Last year a number of growers were delicensed, and others had their areas reduced. Some were subsequently reinstated; but a number of those who are causing trouble today are those who have been licensed growers at one time and have had their licences taken away or their areas reduced. I am told that there are a few others who have come into the industry and have grown potatoes in this crop, who have not been delicensed.

The men who are blackmarketing today may be those who had their licences reduced. These are people who are growing potatoes for a living—it has been their living for many years—and they cannot, in the interests of their families, afford to go out of the industry. I think that at the present time we are nearly out of this trouble. Blackmarketing has been going on; but from what I can learn, it would seem that most of these troubles are now over; that there are not many potatoes left in the hands of those who would wish to blackmarket them. Therefore the drastic need for this legislation is to a large extent reduced.

Whilst I agree with the principle that it is an offence for a grower to sell potatoes outside of the marketing system, I consider it should also be an offence for a retailer to purchase potatoes outside of the marketing system. If the growers are to be prosecuted for selling in these circumstances, then the buyer should be prosecuted for purchasing. So I quite agree

with that part of the Bill which is designed to bring about this state of affairs. I do not, however, believe that in the interests of making it easy to administer the various marketing laws we should introduce the police state.

I do not believe that we should interfere with the freedom of the individual travelling on the highway; that he should be subject to being stopped by a potato inspector. If a person travelling along our roads has potatoes in his vehicle, he may have them there for a reason quite apart from the buying or selling of them. In the interests of the freedom of the individuals of this country, we should not introduce police-state provisions into our marketing laws. The purpose of maintaining the orderly marketing of potatoes could be achieved by much more satisfactory means.

Mr. O'Brien: How are we going to protect the consumer?

Mr. I. W. MANNING: I should think the member for Murchison would know that the consumer does not stand to lose much by what is going on at present, unless he gets an inferior quality potato. However, our concern with this legislation is to preserve the orderly marketing of the commodity. For that purpose I am supporting the Bill in principle; but I want to make it quite clear to Parliament that, in order to achieve this, we should not introduce the police State or gestapo methods by which people on the highway are stopped. If it is thought that they have potatoes on the vehicle, they can be stopped and searched.

When the Minister introduced the Bill the other evening, he pointed out that the Potato Marketing Board required a retailer to declare his stocks and state the name branded on the bags. If the board's inspectors, when they checked the statement, found that it was not correct, they could ask the retailer to explain the discrepancy; and I believe that is a simple way of approaching the problem. If the bags are unbranded, the inspector can ask for an explanation; and if the retailer cannot prove that he bought the potatoes through the marketing system, he is subject to prosecution.

I want now to touch on the question of penalties. I do not believe there is a need for the penalties to be increased. We as a party, and I as an individual, support the view that the matter of the fine to be imposed should be left to the discretion of the court. It would then be elastic. If a grower or a retailer commits a breach of the marketing laws and the offence is a major one the penalty, too, should be a major one. But if it is just a minor or technical breach, or one that is not wilfully committed, I think a fine of £20 is out of all proportion.

In the legislation that has come before the House this session we have seen too much of the doubling of penalties here and there. I do not subscribe to a high minimum irreducible penalty. I believe the question of the penalty should be left to the discretion of the court. Surely it is a principle of British justice to allow the court, in its discretion, to impose a fine commensurate with the offence. I support the second reading of the Bill.

**HON. A. F. WATTS** (Stirling) [5.36]: I propose to support the second reading of the Bill because I think it is necessary and desirable that some legislation should be passed in the circumstances that have existed. I agree that the Potato Marketing Board has, during the time it has been in existence, done a very good job; and I agree with the member for Blackwood that those who criticise the board should think back over the period before it came into being, and they would realise that the state of the potato grower was such—and I think today would have been such had the board not existed—that it was most precarious; and the supply of potatoes was also precarious.

Both of these conditions have been avoided by the existence of the board, and it is desirable to take any reasonable steps which will enable the board successfully to carry out its functions. But I do not think that necessarily extends to quite all the provisions in this measure. I join with previous speakers in criticising one or two of the provisions in the Bill, particularly that which enables an inspector to hold up any motor-vehicle—whether or no he suspects it is carrying or has carried potatoes—and having held it up, to take from it, if it happens to be there and whether it contains potatoes or not, anything that is a suitable container for potatoes. Perhaps I had better quote the provision of the proposed subclause which states that an inspector—

> may impound any bag or other container which is suitable as a container for potatoes, and which he finds on the vehicle, either with or without the potatoes, if any, contained in the bag or other container.

As I interpret that, if the container is suitable for carrying potatoes, even though there are none in it, the inspector is still entitled to impound it. No doubt some of the provisions in the Bill have been dictated by what we can call expediency, and the desire to close every possible loophole. I can sympathise with that desire, even if I cannot support, wholly, the means by which it is sought to be carried out.

I do not think a desire of that kind—or even expediency—can warrant us in departing so far from the usual principles that we apply to these matters. There has been great reluctance in this House

for many years to impose upon a defendant the proof of his innocence rather than to impose on the plaintiff the proof of the defendant's guilt; and while we have, in extraordinary cases, made some exceptions to the rule that it is the business of the plaintiff to establish the defendant's guilt, I think we have toned it down considerably in order to meet the obvious objections, under our system of public justice, that must arise when we depart too far from that general principle; and I would suggest that the same thing applies to this measure.

While I understand, probably, what has given rise to these proposals, I think they go just a step too far. The life of no person on the road, driving a vehicle capable of transporting anything but passengers—and even that might be open to inspection—would be free under this measure, because any and every vehicle could be stopped; and, as I have said, I think that at the least we should have some provision in the measure that the inspector should have some sound reason to believe there were contraband potatoes being carried in the vehicle.

Neither am I quite satisfied with one or two other paragraphs in this clause; but I will not go into that now, because I feel sure that there are other members here who have had more experience in those aspects of the handling and marketing of potatoes than I could ever have; and so I shall leave any arguments on those subjects, in the first instance, to them.

Finally, I agree with the member for Harvey that we are not justified in depriving the courts, in such cases as these, of their discretion in the matter of inflicting penalties. I think it would be unwise, for much the same reasons as I gave in reference to the powers of the inspector, to agree to this principle of the minimum penalty, and deprive the magistrate of the power of mitigation which is granted to him by other statutes.

That power of mitigation applies in the ordinary way, even if the statute concerned provides for a minimum penalty; and in consequence, there can be no substantial objection to the ordinary phraseology "minimum penalty £20"; but when there is incorporated in the amendment the words, "irreducible in mitigation notwithstanding the provisions of any other Act," the authority of the magistrate—even when he is convinced that the circumstances of the case are such that the application of the minimum penalty in the normal way is undesirable, because of circumstances surrounding the offence which mitigate it—is to be taken completely away from him; and nothing less than a penalty of £20 in any circumstances, no matter how sympathetic he might be, could be inflicted; and to that extent I am opposed to that proposition.

I do not think there is any need to labour the question. I am happy to support the second reading for the reasons I gave at the opening of my remarks, and I hope there will be amendments made during the Committee stage that will make the measure entirely acceptable to me.

**MR. ROBERTS** (Bunbury) [5.45]: If members cast their minds back to prewar days, I feel sure they will agree that the condition of the potato growing industry was then chaotic. Neither the consumer nor the grower knew where he stood; and the only person who in those days seemed to make anything out of the industry was the middleman. During the war the Australian Potato Committee came into existence; and about 1946, as the Minister indicated when introducing the Bill, that committee was disbanded, and in time the Western Australian Potato Marketing Board came into existence.

The efforts of those two marketing bodies have done a considerable amount of good to the industry as a whole; and we must appreciate that from the point of view of this State, it is a most important industry. Very nearly 8,000 acres of potatoes are grown yearly in Western Australia; and I understand, from memory, that the growers receive just over £1,000,000 per annum for their product. This is therefore a very important primary industry in Western Australia where we depend so much on industries of that nature.

As I indicated during a similar debate last year, I was closely associated with the potato-growing industry for some years; and I am a supporter of the Western Australian Potato Marketing Board. I say, confidently, that the policy of the party which I have the honour to represent is that where a majority of growers in an industry require a marketing board they should have it. In this instance there is no question that the majority of potato growers desire the existing board.

The Bill seeks to prevent blackmarketing of potatoes. Last year, as members will recall, owing to the extraordinary prices being paid for potatoes in the Eastern States, there was defection from the board by certain growers in this State; and under Section 92 of the Federal Constitution, nothing could be done about it as they were perfectly within their rights in doing what they did.

Last June many growers thought the same circumstances would prevail again this year; but as the exceptionally high prices in the Eastern States have not materialised this season, those who grew potatoes to market in the Eastern States have crashed this time. At one stage in this latest marketing period the board indicated that it was prepared to endeavour to sell these potatoes in the Eastern States

—potatoes grown by unlicensed growers—but certain difficulties arose, and no such sales took place.

The point is that a number of inexperienced potato growers planted potatoes in June and July last in the hope that last year's high prices would again prevail in the Eastern States. They are, in essence, the people who have caused the present trouble; and I think the Minister will agree that in the majority of cases it is the new men in the industry who cannot sell their potatoes at a profit over East, who are now putting them on the local market through blackmarket channels.

Mr. Lawrence: Would you suggest for one moment that they are not breaking the law?

Mr. ROBERTS: They are definitely breaking the law; and in my opinion they are doing a great injury to an important industry in this State. It does not necessarily mean that potatoes are being supplied to the consumer at a cheaper price; but it does mean that an inferior quality potato is finding its way into the retail channels and, in fact, the board is receiving numerous complaints as to quality whereas it is not in any way responsible for blackmarket potatoes. Speaking on the subject of quality, there is one point I would like to clear up. The Minister mentioned in his second reading speech, but I would like to emphasise it, that the board is in no way responsible for the quality of those potatoes. The potato branch of the Department of Agriculture, under an Act of Parliament the title of which for the moment I have forgotten, is responsible for the inspection of potatoes to ensure that they are of good quality.

Mr. Lawrence: Not of blackmarket potatoes?

Mr. ROBERTS: No, because the inspectors do not see them. When the legislation was first introduced in 1946, I feel that the intention of Parliament was to ensure that the grower who delivered potatoes illegally to the retailer, and the retailer who purchased them, should be dealt with because, if one looks at Subsection (2) of Section 22 one sees the following—

> On and after the appointed day—and this Bill will specify that day as the 1st October, 1948—
>
> —a grower shall not sell or deliver any potatoes to any person other than the board and a person other than the board shall not purchase or take delivery of any potatoes from a grower.

Apparently the board has had difficulty in prosecuting these unscrupulous retailers although, fortunately, there are few of them in this State who are dealing in blackmarket potatoes. The difficulty has been brought about by the fact that retailers are not able to name the growers who supply them. This Bill will rectify that position and I feel sure that future prosecutions against retailers who are illegally purchasing blackmarket potatoes will be successful. Now let us look at what provisions the Act contains.

The Minister for Agriculture: The Act or the Bill?

Mr. ROBERTS: The Bill. I am in favour of the board being granted greater powers to stop the blackmarketing of potatoes, because if we are to have an industry in this State that will give satisfaction to the genuine grower, as well as to the consumer, the retention of the Western Australian Potato Marketing Board is essential. However, I do not like some of the provisions in Clause 3. I am all in favour of that part which states that it is sufficient to refer to the grower as "a grower" without the necessity of having to state his name. But then we come to that part which states—

> That the person charged was at that material time required by an inspector to produce . . .

The reference to "that material time" has me a little worried because at certain times—for instance, at the time of the visit of the inspector—the retailer may not have the delivery note or sales docket available. I would like the Minister to clarify that point when he replies. If the inspector receives from the retailer advice that he has legitimately purchased the potatoes, and that the docket or delivery note is forthcoming, I can see nothing wrong with that being sufficient.

The Minister for Agriculture: If you read the Bill, you will see that it clears up that point.

Mr. ROBERTS: Will the Minister clear up that point when he replies, because I would like the matter clarified. However, after I have finished my speech I will have a further look at it.

The Minister for Agriculture: It simply means that if a man cannot produce the evidence by docket or by some other method, a prima facie case has been established.

Mr. ROBERTS: So long as the person will have the opportunity of producing the delivery note at a later date it is all right.

The Minister for Agriculture: If he can produce it at a later date, let him do so.

Mr. ROBERTS: If that will be permitted, it will satisfy me. There is another part of Clause 3 which I would like the Minister to clarify—I refer to subparagraph (iii) of paragraph (e). As I read it, a retailer who receives potatoes into store may, at the request of the board, have to re-sort; on the other hand, he may decide on his own account to re-sort his potatoes. But in the re-sorting or re-bagging he may not necessarily put the potatoes into a branded bag; they may be placed in a container

or he may leave them spread out on a ramp or floor pending the bagging of the potatoes into 7 lb. or 14 lb. paper bags.

Mr. Lawrence: He would not put them into his pocket!

Mr. ROBERTS: I feel that that provision should be clarified because in a number of cases I am certain that a retailer or a wholesaler may have to re-sort potatoes. If he does it, he is doing so in all good faith and the only thing wrong will be that the potatoes are not in their original bags—some of the bags may have been rotten and, as a consequence, he would have to put his potatoes into another bag or container.

The next point that I am a little doubtful about, and which I would like the Minister to clarify, is the provision concerning inspectors. I am not very keen on the idea of inspectors—whether they belong to the Potato Marketing Board or any other department or body—stopping vehicles in motion and inspecting them. If it is considered that goods of an illicit nature are on board, then it is up to the inspector to follow the vehicle and witness the delivery of those goods. This would be far preferable to stopping every Tom, Dick and Harry on the road and inspecting his truck.

The Minister for Works: He might go for 100 miles.

Mr. ROBERTS: That would not matter in the least.

The Minister for Works: It would send up the cost unnecessarily.

Mr. ROBERTS: Some of the provisions in the Bill appear to give inspectors powers additional to those possessed by police officers carrying out duties similar to those which will be undertaken by inspectors. As we know, the officers must have a search warrant; but the inspector under the Bill has an "open sesame." If he desires to examine potatoes in a retailer's store he has carte blanche to do so. The Minister for Works must admit that some of the retailers get quite a few visits from inspectors representing various branches of the Government. For instance, they are visited by sales tax inspectors, health inspectors, stamp duty inspectors, and so on.

The Minister for Agriculture: I do not know what you are trying to get at.

Mr. ROBERTS: I do not like the words "and may request the driver of the vehicle in motion to stop the vehicle" in paragraph (a) of Subclause (7).

The Minister for Agriculture: You are not making yourself very clear to me at all.

The Minister for Transport: Or to anybody else.

Mr. ROBERTS: Quite often the Minister does not make himself clear to me either. It is unfortunate that this Bill is being rushed through.

The Minister for Agriculture: It is not being rushed through at all.

Mr. ROBERTS: I hope the Minister will not take it into Committee tonight, and that we will have time to give the matter more consideration. The measure must be looked into very carefully to ensure that the board gets the power it wants. In giving this power, however, we must be certain that we do not antagonise other people who handle potatoes, whether they be wholesalers, retailers or growers.

The Minister for Agriculture: You look into it and let me know what you have in mind.

Mr. ROBERTS: That is what I propose to do, but we have not had sufficient time. The Minister introduced the Bill last Thursday and we have not had an opportunity of studying his second reading speech.

The Minister for Transport: How many months do you want?

Mr. ROBERTS: We do not want months to study the legislation at all. With respect to the last clause I would point out that I cannot see why anybody should have to pay a minimum fine of £20 if only a technical breach of the principal Act has been committed. Surely it should be left to the court of the land to decide the seriousness of the complaint and to impose a fine accordingly! If the minimum penalty were £50, it would not affect some of those growers or retailers who are dealing on the blackmarket. We must give quite a lot of thought to this measure, and if possible give the board power that will enable it to stop the blackmarketing of potatoes, which is doing so much damage to the industry in this State. With those few comments, and with certain reservations which I hope the Minister will give us an opportunity to debate in the Committee stages, I propose to support the second reading of the Bill.

**MR. OWEN** (Darling Range) [6.5]: I am sure there is not a member in this Chamber who will deny that the Potato Marketing Board has been of great service to the industry since its inception about 10 or more years ago. It has exercised a great deal of control over the growers to see that the supply of potatoes has been adequate. The board has also exercised control over the retailer to ensure that the public received potatoes at a reasonable price. We must agree, therefore, that the Potato Marketing Board should be retained; and if it is to be retained it must, of course, have the necessary powers.

The Bill, however, tends to emphasise the considerable difficulty that arises in policing control measures such as these. We know that during the war blackmarketing was rampant in many spheres, but it has been brought more forcibly to our notice—because of the transactions that have taken place this year—to what extent blackmarketing in potatoes exists now. Prior to last year I believe that blackmarketing in potatoes was carried out to a very small extent—possibly it did not exceed more than 100 tons, or so, in any one season. I think the board was aware of the fact, and was generally quite happy to ignore it because it had no great influence on the supply or retailing angle of potato marketing.

Members will recall, however, that last year we were asked to agree to an amendment that gave the board added power to properly police the channel between the grower and the consumer. It was during a period when the prices in the Eastern States were so high that many hundreds of tons of potatoes grown in Western Australia found their way to markets which had not been anticipated by the board. Because so many growers made huge profits last year by selling potatoes to the Eastern States, growers this year were encouraged to plant very much more than their quota. Thus at this time of the year they are faced with a large surplus. As they have planted more than their quota, they can not expect the Potato Marketing Board to take over all their potatoes.

Mr. Lawrence: Was all that quantity grown under licence?

Mr. OWEN: No. I said that growers had planted in excess of the acreage permitted by the board. Consequently, they have in their possession many tons of potatoes in excess of what the board had permitted them to grow under licence. Even in a fairly good season, the board would be faced with a good surplus of potatoes; but in the last few weeks there has been an excess of potatoes, to a far greater extent than anticipated by the board.

Furthermore, the position in the Eastern States at the present time is the reverse of what obtained last year. In most centres there is an excess of potatoes and the price is much lower than the ruling rate in Western Australia. I am told that small quantities of potatoes grown in the Eastern States have been sent to Western Australia for sale on the Goldfields market, and that they were being sold at a price below the board rate. That situation should emphasise the importance of the Potato Marketing Board. Growers should realise that if there was no board, the market in this State would be flooded with Eastern States potatoes and local growers would be forced to sell at a price far below the cost of production. That is another reason why the State should protect the Potato Marketing Board.

I am a little concerned about the powers contained in the Bill. In many instances in other measures excessive powers have been delegated to inspectors, but so long as the legislation was interpreted on a broad basis and the powers were not abused, there has been no cause for complaint. One point raised by a previous speaker was in respect of the power of inspectors to stop and inspect the loads on vehicles. That could lead to a lot of trouble in the case of potatoes being carried in trucks. One can envisage a potato grower taking some of his potatoes to feed his stock on another property, and not with the intention of selling them on the blackmarket or in contravention of the regulations made under this legislation. If the powers envisaged in this Bill were exercised by the inspectors to the fullest degree, such growers could be penalised. I support the second reading of this Bill, but I consider that in Committee some attempt should be made to "break down" the provisions.

THE MINISTER FOR AGRICULTURE (Hon. E. K. Hoar—Warren—in reply) [6.12]: First of all, I thank members for their contribution to this debate and for their acceptance in principle of what the Bill intends to achieve. Members were being truthful when they said that unless there was legislation—even of a restrictive character—passed, the Potato Marketing Board would not be clothed with sufficient powers to stamp out blackmarketing. Generally speaking, blackmarketing of potatoes has been an everyday occurrence for some time past.

If this legislation is made severe enough to prevent blackmarketing, which only came into existence as a result of the high prices offered for potatoes last year in the Eastern States, then there will be no need for the legislation to be enforced unless it is necessary. Certainly it will still be on the statute book, but there will not be as great a need for it in the future as there is now. In this, as in similar cases when a criminal law is broken and when some people are acting to the detriment of society, some strong action ought to be taken.

Mr. Court: You are not bringing this type of offence into the same classification as normal criminal actions.

The MINISTER FOR AGRICULTURE: If this Bill becomes law, then any person breaking that law will be committing an offence. If blackmarketing is made illegal, and a person indulges in that type of transaction, then he will be dealt with under the provisions of this Bill. It has been necessary for society, over all the years since the people have existed as a nation, to pass laws. This Bill, although of a minor character, is similar to other legislation on the statute book. To overcome the difficulty that has arisen today

in regard to the sale of potatoes, this legislation is as necessary as any other laws that have been passed.

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

The MINISTER FOR AGRICULTURE: Before tea, I was mentioning the necessity for society, at all times, to have some laws to protect its citizens against unscrupulous people; and, I am certain, in view of the experiences we have had in recent days, as well as last year, in regard to the marketing of potatoes, there is sufficient evidence to warrant the introduction of a Bill of this description, which, after all, only seeks to give sufficient power to the Potato Marketing Board to carry out its proper functions under the Marketing of Potatoes Act in the interests of growers and consumers alike. It is a little alarming to me to hear some members who have tentatively supported the principle contained in this Bill tell us exactly what their fears are in this regard.

The member for Harvey says that the last thing we want is to indulge in a police State, and that the board should not have the power which is permitted under this legislation. I say that, whether we like it or not, we are all the time living in a police State; we have to have police in our state of society in order to prevent wrong-doers from doing what they have in mind, and to punish them in case they get away with it. We must have a police State and must have laws which lay down fundamental principles that all people must observe.

Therefore, when we come up against a situation such as we find in the illegal marketing of potatoes, it becomes vitally necessary, if we are going to have authority in the State at all, to have a board capable of carrying out its duties effectively, and to have some law that will enable offenders against the Act to be punished, and punished suitably.

I venture to say that if the member for Harvey lost some of his fat stock on his property he would invoke the police laws of the State very quickly, because he had lost something of value to him. In just the same way, if unscrupulous people are going to indulge in blackmarketing they will cause an upheaval in the marketing conditions of this State, and probably pass on to the consuming public an inferior grade of potatoes; and they are just as deserving of punishment as the person who might go on to the hon. member's property to steal a calf or something else. Even if cattle stray, they are impounded and sold if an owner does not take steps to recover them. These things happen every day of our lives.

Mr. Court: You are not suggesting that the general conduct of the police is along the lines proposed in this Bill?

The MINISTER FOR AGRICULTURE: No, I am referring to the suggestion made by the member for Harvey when speaking to this Bill, that we should not have a police State. In other words, he infers that this Bill is going to create a police State. However, whether we like it or not, we are living in a police State.

Mr. Court: You are stretching things a bit there.

The MINISTER FOR AGRICULTURE: So is the member for Harvey; because all this Bill does is to prevent the illegal marketing of potatoes. It does not set out to do anything else.

Mr. Court: He was only complaining about the extraordinary powers.

The MINISTER FOR AGRICULTURE: He was complaining about the conditions laid down in this Bill, which, in his mind, would create a police State. I am arguing that it does nothing of the kind, but simply gives the board power.

Mr. I. W. Manning: What I was complaining about was that an inspector could speak to about 50 people going about their legitimate business in order to find one who was doing wrong.

The MINISTER FOR AGRICULTURE: A few minutes ago the manager of the Potato Marketing Board gave me this note, and it will indicate the difficulty the board has all the time in endeavouring to carry out the requirements of the Act. He says—

> At the present moment I have two inspectors taking turns watching a truck in Leederville. They have been doing this job for over 48 hours, because they have reason to believe that this truck is going to indulge in illegal trafficking of potatoes.

Therefore, I think we should not quibble about giving sufficient power to the board to stop this sort of thing. I do not think that any member in this Chamber would want it to continue for one minute. We do not want 2s. each way. We must either give the board absolute and complete power; or, as the member for Harvey said, give complete freedom to the individual, regardless of what happens. I venture to say there are not many in this Chamber who think along those lines.

Mr. I. W. Manning: I said I did not want to interfere with the freedom of the individual.

The MINISTER FOR AGRICULTURE: I do not agree with anything the hon. member said in his entire speech, which was only a reflection of what he said last year when a serious situation had developed in regard to potatoes being sent to the Eastern States. The hon. member took exactly the same line on that occasion. Had it been possible to do something effective, then perhaps something

more drastic would not have to be done now. The very thing the member for Harvey feels he should support tentatively, with his tongue in his cheek perhaps—that is, the continuance of the board's activities—is going to be completely destroyed overnight. I do not believe he wants that; and if he does not want that he should not say the things he said when speaking to this Bill.

Mr. Court: I think you are distorting the position.

The MINISTER FOR AGRICULTURE: I ask the member for Nedlands to read what he said.

Mr. I. W. Manning: I spoke about the freedom of the grower.

The MINISTER FOR AGRICULTURE: I do not agree with the hon. member's attitude, and think it is entirely wrong.

Mr. Lawrence: Why not do away with the board altogether?

The MINISTER FOR AGRICULTURE: I will do away with the member for South Fremantle if he likes. Hon. members may desire to submit one or two minor amendments to the Bill.

Mr. I. W. Manning: You are coming our way now.

The MINISTER FOR AGRICULTURE: No; because I remember the hon. member's attitude last year, and it is no different now. On the question of penalty, if the Bill is passed the Act will provide not only for a maximum of £100, but also for "a minimum penalty irreducible in mitigation notwithstanding any provision of any other Act, of £20". This proposed penalty is a minimum, and a lot of people believe it is not nearly high enough. I think it would be quite suitable as a deterrent if it were included in the Act. But I do not believe that an irreducible minimum of £20 for a minor or technical offence would, if it were included, meet the wishes of the Potato Marketing Board.

When we amend this, if we amend it at all, we should not reduce the amount. We ought to bring this clause into closer contact with the type of offence that it is designed to prevent. In this connection I refer members to Section 22 (2) of the Act which provides—

> On or after the appointed day a grower shall not sell or deliver any potatoes to any person other than the board and a person other than the board shall not purchase or take delivery of any potatoes from a grower.

That is the core and essence of the Act from the point of view of control of production and distribution. Up to now it has been completely ineffective, for the reasons I gave when introducing the Bill; namely, that the board cannot prove the identity of any particular person in order to bring a charge home to him.

Therefore, if the proposed amendment of £20 could be limited to this section in the Act, which deals with a serious offence, I think it would be a reasonable proposition. For this offence we should not think of imposing less than £20 as a fine; but if the £20 could be limited to this section, and the £100 maximum made to apply to all other types of offence in the Act, it would, as I have said, be reasonable.

If, however, members are thinking of striking this out of the Bill altogether and leaving the maximum penalty of £100, at the discretion of the magistrate, we will be faced with the same position as we face now which is that for various types of offence—many of them serious—a magistrate will not fine a person more than a couple of pounds. This is not a penalty in the real sense of the word and does not act as a deterrent.

Under the Act there is, for minor offences which are covered by regulation, a maximum penalty of £20. So if we can limit the application of the proposal in the Bill to the vital section of the Act, which the Potato Marketing Board wants to control effectively, we will be doing a great deal to meet the objections of those members who do not want this to apply to minor breaches of the law, but who wish to retain it probably for the reason that it was put into the Bill: as a penalty of an irreducible minimum for those who indulge in blackmarketing—because that is what it means, and nothing else. The Leader of the Country Party possibly had that in mind when he was speaking.

In view of the fact that some members did not have an opportunity of hearing my remarks when I introduced the Bill last Thursday afternoon, and have not since then had a chance to read my speech, I propose that, after the second reading, the Committee stage shall be made an Order of the Day for the next sitting of the House. This will enable members who have ideas along the lines I have mentioned, to place their amendments on the notice paper, and we can have a look at them on some other day.

I would not like members to think that this is a simple and easy matter. We are either on the side of the unscrupulous people, or on the side of law and order as represented by the Potato Marketing Board. We cannot be on both sides: there is no sitting on the fence in regard to a subject of this character. We ought all to agree, without any reservation, to give the board ample power to do the work for which it was created.

Question put and passed.

Bill read a second time.

## BILL—ELECTORAL ACT AMENDMENT (No. 1).

*Second Reading.*

Debate resumed from the 26th September.

**THE MINISTER FOR JUSTICE** (Hon. E. Nulsen—Eyre—in reply) [7.46]: It seems that neither the Leader of the Opposition nor the Leader of the Country Party has given much thought to the provisions contained in this Bill, in that a number of references to the provisions were not in accordance with the facts.

The Leader of the Opposition was most insistent that the Chief Electoral Officer had been imposing penalties for some time for non-enrolment. This is not so, and it is apparent that the Leader of the Country Party is hopelessly confused in this regard. The Chief Electoral Officer is empowered under the Act to impose penalties for non-voting. It is considered that he should have similar powers in respect of non-enrolment, and the Bill aims to give him those powers.

The repeal of Sections 43, 46 and 47, and the re-enactment of Section 46 in an amended form, was considered desirable in order that certain existing provisions could be deleted and others dealing with the one subject matter could be included in the one section. By this procedure the maturation period of 14 days for a claim is eliminated and the duties required of a registrar following the receipt of a claim are now included in one section.

At present, it is necessary to refer to three sections for this information; and we find that the subsection requiring the registrar of a district to issue a receipt to the elector for each claim received is at the end of the section dealing with compulsory enrolment, and it refers to Assembly enrolment only. The section as amended makes it necessary for the registrar of a Council roll to acknowledge the receipt of a claim.

Section 46 of the principal Act says that if the claim is in order and is not objected to, the registrar shall enrol the claimant; and although it does not say anything about the registrar being satisfied that the claimant was entitled to be enrolled, the Leader of the Country Party should read Section 47, referring to objections to claims, which says—

> It will be the duty of the registrar to object to any claim if he has reason to believe that the claimant is not entitled to be enrolled.

Surely, then, it must be conceded that if the registrar does not object to a claim for enrolment, he must be satisfied that the claimant is entitled to be enrolled.

In giving these matters a little more thought, perhaps the Leader of the Country Party will appreciate the desirability of bringing together those sections which relate to the same subject matters in order to improve and simplify the Act, and not spend his valuable time looking for a nigger in the woodpile that does not exist. The amendment follows the Commonwealth Act in regard to enrolment and rejection of claims, and no complaints have been heard against the Commonwealth system. An elector is not deprived of any rights by the deletion of the provision for the objection to claims and action in respect of objections to enrolment can be taken just as expeditiously. Under the existing sections both must be heard and determined by a magistrate.

Surely the Leader of the Country Party is not sincere in his objection to the insertion of the provision making it encumbent on any person objecting to the enrolment of an elector to appear in person! In his capacity as a legal practitioner he must realise that a complaint would not be heard in a court of petty sessions unless the complainant was in attendance, and as an elector who objects to the enrolment of another is in the same category as a complainant, it is only right and proper that he should attend at the hearing to support the objection.

An elector's franchise is most important and is something that must be protected and not be subject to the whim of some individual who can, on payment of a fee, object to an elector's enrolment and then expect the matter to be dealt with without having the decency to attend in person at the hearing of the objection so that he can be examined on oath.

It is considered that there is no necessity to retain the provision for a minimum period of 35 days between nomination day and polling day for an election in the North Province and its retention really fixes a minimum period of forty-two days between the issue of a writ and polling day for a general election for the Legislative Council as the same day for polling is usually fixed for all provinces. When this proviso was inserted in the Act in 1948, the districts within the North Province were included, but in 1952 Parliament amended the Act to delete those districts. It is considered that if a minimum period of thirty-five days between nomination day and polling day is not warranted for an Assembly election for the districts within the North Province, that minimum is not required for a Council election for that province.

A request for the party designation to be shown on the ballot paper was made by the Country and Democratic League in 1951 and this Government is now prepared to accede to this request. It must be acknowledged that some control and supervision must operate. The Bill sets out the procedure considered necessary but I am prepared to examine and carefully consider any amendments put forward by the Opposition. The amendment is not

designed to give any political party an advantage but is aimed at assisting electors to record their votes in the manner desired. I fail to follow the Leader of the Opposition's reasoning that by showing the party designation on the ballot paper, the individual no longer exists. While the name of the candidate is on the ballot paper, his individuality is maintained and the party designation emphasises the party which he represents. We, on this side of the House, are proud of our party affiliation and are not afraid to publicise it on the ballot paper or in any other manner whatsoever.

The Leader of the Opposition approaches the Bill with a suspicious mind, particularly in regard to the provision for the reduction of the qualifying residential period from three months to one month. He gives no consideration to the difficulties in the administration or the confusion to electors caused by the variation of the period compared with that of the Commonwealth. It is recognised that the provision is frequently breached, in most cases innocently, but nevertheless an offence has been committed and is subject to prosecution.

The Deputy Leader of the Opposition, by interjections, inferred his tolerance of a breach of the three months' qualification, yet further stated that he considered three months reasonable. Surely these statements are contradictory and do they not point to opposition merely on the grounds of automatic opposition?

Mr. Court: I have not changed my attitude. I said the three months' provision should prevail, or words to that effect.

Hon. Sir Ross McLarty: Who said that about him?

The MINISTER FOR JUSTICE: I said it, because he said it himself. Surely these statements are contradictory! Do they not point to opposition merely on the grounds of automatic opposition?

Mr. Court: Does that amount to praise, or condemnation?

The MINISTER FOR JUSTICE: The designation was suggested in the first instance by members opposite when they were the Government in 1951. If the Deputy Leader of the Opposition is so generous in regard to electors being enrolled without the necessary residential qualification when the provision has been breached innocently, why oppose the amendment and impede our objective for uniformity? I wonder why the Deputy Leader of the Opposition thinks it reasonable that in the case of an elector who moves across the road, say, Vincent-st., Nedlands—the boundary between Nedlands and Claremont districts—he should serve a three months' qualifying period before he can effect a change in his enrolment for the Legislative Assembly, bearing in mind that he can immediately effect enrolment for the Legislative Council if he acquires the necessary qualification?

Mr. Court: I do not know why I have come in for such prominence in regard to this Bill, seeing that I did not speak to the debate on the second reading.

The MINISTER FOR JUSTICE: The hon. member's interjections led up to this. The Leader of the Opposition seems to think that it takes an elector three months after residence in a district to know his district and that he requires that time to attend to his enrolment. This is hardly borne out by the fact that he attends to his Commonwealth enrolment within one month. Conversely, I would say that an elector, after his departure from a district, immediately loses interest in that district and quickly becomes interested in the new district into which he has moved.

The present provision is most difficult to administer and there is no way in which the period of residence in a district can be verified other than by a personal check and, of course, this would be impracticable. It is ridiculous to suggest that the Commonwealth should fall in line with this State. The Commonwealth and all other States are uniform in respect of the residential qualification and it is not unreasonable to ask that this State should come into line and thus attain uniformity throughout Australia.

This Bill was brought down to facilitate the administration of the Act and remove confusion from the minds of electors, and for no other reason. At present it is confusing that one can enrol after one month in the case of the Commonwealth while it takes three months with regard to the State. Western Australia is the only State out of step in that respect and all the other States have fallen into line with the Commonwealth electoral laws. So I think that members opposite should do everything possible to make things easier for administration and to make the electoral laws less confusing. As New South Wales, Victoria and the other States of the Commonwealth have fallen into line with the Commonwealth legislation, we should do the same thing in order to achieve uniformity. I hope that when we get into Committee our friends opposite will see reason and will do what they can to help bring about uniformity in our electoral laws. This will be of great assistance not only to the people of this State but also to the administration of the Act.

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

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

Ayes.

| | |
|---|---|
| Mr. Andrew | Mr. Lawrence |
| Mr. Brady | Mr. Marshall |
| Mr. Gaffy | Mr. Moir |
| Mr. Graham | Mr. Norton |
| Mr. Hall | Mr. Nulsen |
| Mr. Hawke | Mr. O'Brien |
| Mr. W. Hegney | Mr. Potter |
| Mr. Hoar | Mr. Rhatigan |
| Mr. Jamieson | Mr. Rodoreda |
| Mr. Johnson | Mr. Sleeman |
| Mr. Lapham | Mr. May |
| | *(Teller.)* |

Noes.

| | |
|---|---|
| Mr. Ackland | Mr. Mann |
| Mr. Brand | Sir Ross McLarty |
| Mr. Cornell | Mr. Nalder |
| Mr. Court | Mr. Oldfield |
| Mr. Crommelin | Mr. Perkins |
| Mr. Grayden | Mr. Wild |
| Mr. Hearman | Mr. I. Manning |
| Mr. Hutchinson | *(Teller.)* |

Pairs.

| Ayes. | Noes. |
|---|---|
| Mr. Tonkin | Mr. Bovell |
| Mr. Kelly | Mr. Thorn |
| Mr. Toms | Mr. Roberts |
| Mr. Evans | Mr. Watts |
| Mr. Heal | Mr. Owen |
| Mr. Sewell | Mr. W. Manning |

Question thus passed.

Bill read a second time.

## BILL—COMPANIES ACT AMENDMENT.

*Second Reading.*

Debate resumed from the 29th August.

**MR. COURT** (Nedlands) [8.5]: Periodically it is necessary to review the companies law of the State. At all times it is an important matter because any regulated society must have a Companies Act, or the equivalent thereof, kept up to date and in good form. It has a direct effect on industry and commerce and any State which has loose company laws is only inviting maladministration within companies and, in fact, is inviting scandals within companies. On the other hand, any State which has excessively restrictive company law is sure to frighten away very worthy companies and when it frightens away such companies, it automatically frightens away very desirable industries and commercial ventures.

We have moved a long way since the days of the old South Sea Bubble, and the company law in this State has served us very well. I think it has moved with the times and whilst there may be certain features of it which are not right up to date by the standards in other parts of the world, I feel that the company law we have in this State is a very sound Act and meets all the immediate requirements.

This Bill attempts in one measure to cover a considerable number of items and I think it is important that one should try to summarise them, in the main, even if not in an exhaustive manner. It attempts to increase certain penalties very severely—I will deal with that aspect later—and it attempts to increase certain fees by providing new machinery for the fixing of those fees, namely, the fixing of them by regulation. It increases the preferential amount in winding up which will be admitted by a liquidator in respect of salaries and wages, and it introduces a new principle inasmuch as it seeks to make holiday pay a preferred claim in a winding up.

The Bill also attempts to tighten up requirements with respect to receivership and it also helps foreign companies to avoid filing balance sheets for public inspection when they do not have to do so in their country or State of origin. Where no lodging is needed in the place of origin, they are already exempt—that is, if they do not have to lodge their balance sheets at all with the Registrar of Companies in the country or State of origin, they are already exempt as foreign companies, under our law. There are places which permit companies to lodge their balance sheets in a sealed form so that they are only available for inspection by the registrar or some other properly appointed officer, and are not open to the general gaze of the public.

This Bill seeks to grant to foreign companies a concession so that if their State or country of origin does not require them to lodge their accounts except in a sealed form, they will not have to lodge their accounts in this State. I will deal briefly with that matter in a minute because it is one of concern to foreign companies and the attraction of worthy companies, worthy industries and commercial ventures to this State. However, the most far-reaching of the amendments in this Bill is that dealing with unit trusts. The measure attempts to provide a minimum standard of conduct for unit trust companies, so that they cannot defeat the existing provisions in the Act dealing with prospectuses and the hawking of shares. A further provision is the creation of greater elasticity for the Registrar of Companies in his power to discipline auditors and liquidators for offences under this Act.

Let us take each of these objects of the Bill in turn. Without intruding on the Committee stage discussion, which will be by far the more important part of the deliberations on this measure, I would like to comment briefly on each of the points that the Bill seeks to achieve. The increasing of penalties I feel to be a very wrong step on the part of the Government, particularly at this time. Members will realise, if they have studied the Bill, that the Government seeks to increase very severely the penalties in this Act. It is true that the penalties are maximum penalties, and therefore it is at the discretion of the court as to what will be the amount imposed from almost nothing up to the maximum prescribed in the Bill.

However, the Act already contains some very severe penalties. In fact, when one reads the Act, one feels it is almost unsafe to be a company promoter, a company secretary, a company manager or a company director. It is to the credit of the administration of companies in this State that we have had comparatively few actions to deal with people who have transgressed our company law.

I have on a previous occasion invited the attention of the House to the different attitude of the Government towards the very heavy daily penalties as well as the maximum penalties, of this legislation, compared with its attitude under the industrial arbitration law. The penalties under the industrial arbitration law are a mere fleabite compared with those already in the Companies Act; and it is not so long since the Minister for Labour attempted to reduce considerably the penalties under the Industrial Arbitration Act. But here the Government is attempting to increase very severely the already heavy penalties that exist in our company law.

Furthermore, I cannot see what prompts the Government to want to increase those penalties, because there have not been cases of excess by company administration in this State. I think the Registrar of Companies and his deputy would testify to the fact that in the main they receive great co-operation; that there is a good sound feeling of mutual trust between the company administration in this State and the officers of the Companies Office.

The Minister for Justice: This only brings the penalties up to present-day money values.

Mr. COURT: If that were a universal or a general approach by the Government—

The Minister for Justice: I think it is.

Mr. COURT: If it were, one could see some merit in it. But it was only a short while ago that the Minister for Labour, on behalf of the Government, battled here to slash the penalties in the industrial arbitration legislation. It is not consistent. Already the drastic penalties in one set of laws as against the other are quite different. The penalties in this legislation are considerably higher than those in the industrial arbitration law—and for offences which are of no great consequence to the economy of this State. That, however, did not stop the Government from wanting to slash those penalties. But now, on the argument that money values have changed, the Government is wanting to increase the penalties in this companies legislation.

I need not dwell on the next point, which relates to the fixing of fees by regulation, because the Minister knows our attitude towards that aspect of our legislation. They need to be varied so seldom that it is not asking too much of the Government of the day to bring legislation before the House to justify any changes in the fees. Some of these fees, as distinct from penalties, are already very severe; but the Government wants power to fix them by regulation.

On the question of increasing the amounts to receive preferred treatment in the windings up at hands of liquidators in respect of salaries and wages, I agree with the amendment. We have to acknowledge the change in money values; and whilst I would agree with the Minister in regard to his penalties, if he were being consistent and applying it to all legislation, he has transgressed in principle in that connection—not he personally, but the Government.

But leaving the argument of penalties aside, I am raising no objection to salary and wage-earners being given the benefit of the higher amount as preferential treatment in windings up. If we have regard to the movements in the basic wage, and for the average type of person who would be under consideration for preferential treatment in respect of salaries and wages, I think the proposal is not unreasonable.

The Government has sought to increase the amount that will be treated as preferential from £50 to £150. The new principle it has sought to introduce—namely, to give preferred treatment in liquidation for holiday pay—is not a good one. The whole concept of holiday pay is entirely different from salaries and wages. It is part of the Government's policy to see that the people take their holidays regularly. These are not given as a financial reward but for an entirely different reason.

There are many industrial arbitration cases that have established the fact that holiday pay is in an entirely different category from ordinary wages. For instance, the entitlement is not automatic in all cases, and it does not actually accrue until the happening of certain events—as distinct from wages which accrue weekly, fortnightly or at some other regular interval.

The Minister for Justice: The policy of the Government is that everybody should take his holidays when they become due. There are few cases of their being accumulated, but when that does occur, it is for the convenience of the Government.

Mr. COURT: Some employees on the other hand deliberately connive with their employers to accumulate their leave; and this is contrary to the Government's policy, and also to good practice in industry. But the Government has introduced this Bill without any ceiling being placed on holiday pay, as I see it: and I do not think that is a good thing. It encourages a bad principle.

A limit has been fixed in respect of salaries and wages, and the amount has been increased from £50 to £150. But the Government has brought in holiday pay provisions without any figure being fixed as the ceiling limit on that amount. If one agreed to the provision of holiday pay as a preferential claim, I think it is only right and proper, in the interests of well-ordered company administration, to fix a limit. We have at all times fixed a limit for salaries and wages. At the moment I would say that I do not subscribe to the theory that we should introduce this new principle. By all means increase the maximum that an employee is entitled to for salaries and wages in a winding up; but there should not be a holiday-pay provision.

I have no objection to the tightening up of receivership requirements. I would say that what the law is seeking to do is to catch up with good practice. We are proud of the fact in this State that most of the company law has been introduced to acknowledge what has been considered as good practice by people who conduct their affairs in a sound manner. It is good to see that. The company law in this State, in the main, has not been brought down to direct people to do things they do not want to do; it has really been framed to establish a code of practice that has been voluntarily undertaken by sound reputable people. So the requirements in connection with receiverships, apart from one or two minor administrative problems; which are covered by amendments in my name on the notice paper and are of no great moment, are, in my opinion, quite satisfactory, and only write into the law what is at present acknowledged sound practice.

The provision to facilitate the lodging of balance sheets of foreign companies is a desirable one. One or two States have had to amend their company law to acknowledge the principle that when a company in its State of origin or country of origin, may lodge its accounts in sealed envelopes, any other States where it is registered will have to admit the same practice, or abandon the demand for lodging balance sheets at all.

For instance, there was an outcry in Queensland when companies which could avoid public lodging of their accounts in other States, would not go to Queensland because of the necessity for the lodging of their accounts to public view. All that the "sticky-beaks" from other States had to do in order to obtain information which they could not get from Victoria, for instance, was to send to Queensland for a copy of the accounts of the company concerned.

It is a very sound principle for the Government of this State to abandon the requirement for the lodging of these accounts where in the State or country of origin the company has only to lodge its accounts in sealed envelopes to be available to the registrar or to any other duly authorised officer.

Mr. Johnson: What objection is there, on the part of an honest company, to the public seeing its accounts?

Mr. COURT: The hon. member appreciates that in the main this applies to private companies, or proprietary companies as we know them in this State. Under our State law it has been acknowledged, as it has been in many other parts of the world, that private companies do not have to lodge their accounts for the full public gaze of some "sticky-beaks" who might want to get some private information. Public companies have to lodge their accounts, and that is almost universal practice.

In the main, the principle has been acknowledged that proprietary limited companies constitute a limited liability form of private partnerships. We do not expect partnerships to lodge accounts to be available to the public gaze. If a prudent businessman were making credit available to a partnership, or to a proprietary company, he would establish beforehand the financial stability of that particular person or company. He might insist on seeing that person's accounts before extending the credit, but that is between the proprietary company and the creditor.

In the case of public companies we have insisted that they publish and file their accounts. There is a vital difference. In the case of public companies, they are compelled by law to circulate a copy of their accounts to each and every one of their shareholders at prescribed intervals. If there are 400 or 4,000 shareholders who get a copy of the accounts, it would be absurd to deny the lodging of those accounts at the court; but in the case of a proprietary company, the situation is entirely different.

The Minister for Justice: Although private companies can be just as large as public companies.

Mr. COURT: Admittedly. There are many private companies which are much greater than public companies in their capital structure.

The Minister for Justice: And in their members.

Mr. COURT: There are exceptional cases, but in the main, with the limitation in the Act keeping the number of shareholders in proprietary companies down to 50, it is most unusual for public companies, within the meaning of our Companies Act, to have fewer shareholders than proprietary companies. It is true that under the taxation law, by taking certain action, one can keep the number of shareholders in a public company to

below 50, but that would be most unusual, and it is usually a taxation action, rather than one taken under company law.

On the question of unit trusts, I have placed on the notice paper what looks to be a fairly formidable list of amendments. I am sure that the Clerk of the Assembly as well as the Government Printer will be glad to see them disappear. But they are not really as formidable as they might appear at first sight, and I shall explain them at the appropriate time.

I agree with the objective of the Government in making it impracticable for firms setting up in business as a unit trust company to avoid the responsibilities that were written into the company law relating to the issuing of prospectuses and the restriction on the hawking of shares. It would be ludicrous if, by resorting to this new practice, one could avoid the onerous conditions of the Companies Act. The prospectus requirements of that Act are very severe. Added to that, the Stock Exchange of this State has even more severe requirements. So the prospectuses that are published and circulated in this State are almost models. It would be difficult to find prospectuses prepared anywhere else in the world that were more carefully prepared and more carefully scrutinised. The Minister can compliment his staff on the zeal displayed by them in examining these documents. These long statements containing statutory information which I am sure very few people read, are gone through with a fine tooth-comb by his officers, particularly the deputy registrar.

The result is that the prospectuses circulated in this State under the Companies Act are models of disclosure and completeness. Therefore, it would be completely wrong if, by establishing a new system in this State, we could defeat our own onerous prospectus and anti-hawking laws. Here again we find that the requirements which the Government is seeking on this accasion give only legal effect to the carrying out of sound practices of the existing reputable trust companies. It is interesting to consider the documents that have been circulated to potential investors. The wealth of informaton that they contain, and the additional statutory information which they give, ensure that these companies need have no fear under the Government's proposal.

In fact, I have gone further in the amendments in my name on the notice paper, because there were one or two legal practical difficulties in the proposition put forward by the Government. However, information will be given at the appropriate time to explain the reasons for the new section that is proposed. I am sure that the Australian Fixed Trusts, which operates in this State, will welcome this legislation. It means that anyone else engaging in that type of business will have to conform to a minimum standard.

The Bill in its present form would have created an anomaly, because it means that these trusts, in putting forward their propositions to would-be investors, would have to issue prospectuses of each and every one of the companies in their portfolio. The whole object of forming these companies is to enable a person of very minor means to purchase a £100, £500 or £1,000, etc., block of shares in these unit trusts and thereby automatically participate in a portfolio of companies in which they would have no chance of participating otherwise. They include companies like B.H.P., Australian Paper Mills, I.C.I. and and many other reputable concerns.

It is also very interesting to note that these trusts—the Australian Fixed Trusts in particular—have started to include Western Australian public companies in their portfolios. The significance is that they have tapped for us a new source of investment, because it should increase the availability of funds for these particular ventures. We now have a buyer, with considerable financial resources in the field to acquire these shares. Naturally companies known to be reputable concerns of sound trading performance and sound dividend performance, have been selected and made part of their overall portfolio.

**MR. JOHNSON** (Leederville) [8.31]: It is not my intention to deal with the bulk of the material in this measure, which is essentially a Committee Bill; but I would like to speak to the matter last dealt with by the Deputy Leader of the Opposition—unit trusts.

Unit trusts are a new method of collecting money, and of dealing with investment and saving. I think it behoves us, as a Parliament, and as responsible people, to give some thought to the place where unit trusts fit into our economic structure. They are a very expensive way of investing in shares; and are, to a very real extent, an invasion of the place in our economy taken by the normal sharebroker.

The normal sharebroker is already equipped to handle all small investments. Sharebrokers do not do much in the way of advertising. They have a professional etiquette that prevents their going out after money. Like a spider waiting in his web for a fly, they wait for someone to come and produce money for investment.

The unit trust organisations are now advertising, and have a very high-pressure method of going out after the savings of the smaller people. They advertise consistently, and go in for glamourised documents and brochures. I would not, like the member for Nedlands, call them prospectuses, because they do not comply with the law in relation to prospectuses, as it is at present. They produce documents that are advertised and which give a picture from which the truth could be

taken, but which are in themselves a reflection of something a good deal different from the actual truth.

Mr. Court: I think that is a grossly unfair and improper statement. You can't say they are not telling the truth. Have you studied one of them?

Mr. JOHNSON: They are documents from which the truth can be taken. But they give an unbalanced picture, and they are not as accurate as I feel they should be. For instance, in the latest issue being advertised with some force right now, there is no indication of the number of shares or the proportion of shareholding in any of the companies listed as being held in the portfolio.

Mr. Court: There is no need to. You do not understand the system apparently.

Mr. JOHNSON: I think I understand it too well. It is not altogether accurate. Anybody subscribing to unit trusts knows what he is getting; he has to take the stock given at face value—that is as much value as the face of any made-up dance-hall girl. One has to take the surface and trust as to what is underneath. That is the situation. They advertise that the result will be so and so, and that shares are backed by investments in a large number of companies. They might only have one share in most of them. However, I imagine they do better than that.

As I said, they are an expensive way of getting money from the small man and making it available to the share market. To that extent they are a new source of investment. However, listening to the speech of the Deputy Leader of the Opposition, one would have thought that the implication was that these were a new source of investment, producing money which went into a new capital structure. That is not so.

The trend of their advertising is that they are investing in established companies. They are producing shares on the open market—well established, good quality shares; that is the whole of their story. And in so doing they are not supplying fresh risk capital; in fact, the whole of their ideas of advertising are that there is no risk and, to that extent, they are not providing a new source of investment.

Mr. Court: They are creating a market for shares. I am amazed at your reference to the sharebrokers, because they are 100 per cent. behind the scheme.

Mr. JOHNSON: The sharebrokers can do the business much cheaper.

Mr. Court: A person with £500 could not have a portfolio of 50 well-known stocks. They would have £10 in each.

Mr. JOHNSON: The hon. member would be surprised what small amounts go through the registered stockbrokers. The point I wanted to discuss was the effect on our economy of scheming for the small man's money, which is what these trusts are trying to do. The people at whom the unit trust is aimed are normally the savings bank type of customer. The intended effect of the unit trust is to denude the savings bank of capital, and I am not sure that that is entirely desirable.

Admittedly it has the effect—as the member for Nedlands has shown—of forcing up the price of shares on the share market. However, it is not necessarily desirable, although it may give a source of profit to present investors, and is certainly a form of insurance against loss, in that it spreads to the small man existing investments. But what does it do to our savings bank capital structure?

There is no doubt that it is at that particular form of structure they are aimed. Prior to the present time, the capitalisation of savings bank deposits has been a very real factor in our economy and has stood well and truly behind the housing industry particularly. A great deal of the capital that has stood behind the building of houses has come from the savings banks; and it would appear this attack on the savings bank balance will reduce the proportion of money available for housing, and will put it into the investment side of our economy. Is that wise?

It may be that we in Western Australia have got on top of our housing problem—I fancy it is not permanently solved—and the indications are that, unless money can be made available for houses in ever-growing numbers, our standard of housing must fall back. If part of the cause of that is unit trusts, I think we would be right in saying that these things are less than desirable. I am not sure that that is so; I have never seen a study of the effect of them upon our economy. The ideas are my own. I feel, though, that there is real danger in too great an encouragement of unit trusts.

Furthermore, I feel that they are too expensive; that the cost of management as affecting the individual trust unit holder is excessive. Once again it appears to be the penalty of being a small man. There seems to be no place in the commercial side of our world where there is not a penalty for being small, poor and weak. Everything goes to the strong man. He gets his profits at a high rate and his costs at a low rate.

The investment of the small man in unit trusts is less profitable to him than the investment of the large man holding a similar porfolio through sharebrokers. Admittedly there is a great deal done for him, but I feel the cost is not totally warranted. I consider also that it would be fair to say that if the return to the organisers of these trusts was not well above the actual cost, no one would go to the trouble of organising them; that is obvious.

Mr. Court: People expect to be paid for service.

Mr. JOHNSON: Yes, but I think they are getting paid at an excessive rate for the service they give.

Mr. Court: You are only assuming that; and I do not think you know much about these trusts, because you said that when you buy a unit in one of these trusts you do not know what companies the shares are in or in what proportion.

Mr. JOHNSON: You don't, either!

Mr. Court: You obviously have not read the statutory requirements that go into the brochure.

Mr. JOHNSON: I have read everything they have sent me.

Mr. Court: You want to get one of the up-to-date brochures with the additional statutory information in it, setting out the lot.

Mr. JOHNSON: My experience is that of someone who has been under the pressure of their high-pressure selling. I have read every item they have sent me—and they have sent me plenty, because they have taken my name from the phone book on the one hand, and from some other place on the other, so that I get one complete set of advertising addressed to S. E. Johnson and another to S. E. I. Johnson.

Mr. Court: You had better tell them you are in the big investor class and do not need their service.

Mr. JOHNSON: No. I take any information I can get, because I feel sure there is no place in the commercial world where there is not some penalty for being small; and the only way we can get the knowledge as to who puts the penalty on and who gets the profits out of the small man, is to investigate every possible source of information. I have read quite a lot not only on unit trusts, but also on other public and semi-public commercial organisations.

The whole point I wish to make is bound up in the statement that I think these things are too expensive to the people concerned, and I am not sure that they are desirable in our economy. I would like to see the whole of their relationship to our economy examined with great care, because I have an uncertain feeling as to any real benefit to the investor in unit trusts, although there may be some worth-while benefit to the organisers and to the companies into which the funds are placed.

There is one point that does not appear to be covered by this legislation, and which I would like to see covered; and that is the control of the voting rights in regard to the shares in the companies that are held by the unit trust organisation. The proposition in the Bill is that the voting rights should be exercised by a trustee.

In my opinion that is a wide proposition and leaves the power of voting to be exercised at the discretion of someone who is not directed by those for whom he is a trustee. I feel there is a danger in this point, too; and I would like to see a further examination of it. I am not sure it would not be preferable to insist that the shares held by unit trusts be not voted at all, because it seems impossible to have any direction from those on whose behalf the shares are held.

It could be quite improper if the trustees of unit trusts were to find themselves in a situation where they were directly responsible for the election or for the defeat at election of directors of companies when the shares on which they were voting rested really in a multitude of investors outside. So I make what I call an appeal for further study of this question, and possibly further legislation on the problem in the not-too-distant future. I do not oppose the matter in the Bill, but I do feel that further study is called for.

Question put and passed.

Bill read a second time.

*In Committee.*

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

Clause 1—agreed to.

Clause 2—Section 28 amended:

Mr. COURT: The object here obviously is to increase revenue. But I invite attention to the fact that the amount of five guineas, which is already charged for the certificate, is a sizeable fee under the provisions of Subsection (8), which appears at page 32 of the principal Act. It is not likely that the Government will want to change this provision often. We have been over this argument as recently as when we dealt with the bills of sale measure the other evening, and I continue to oppose the fixing of fees by regulation. I oppose the clause.

The MINISTER FOR JUSTICE: I ask the Committee to agree to the clause as the present fees are very small and this provision will make for uniformity. In 1948 the McLarty-Watts Government brought down a number of measures in which many matters were dealt with by regulation.

Mr. Court: Since then they have become reformed characters.

The MINISTER FOR JUSTICE: What is an amount of five guineas or 10 guineas to a company?

Mr. Court: Companies vary in size and it could mean a lot.

The MINISTER FOR JUSTICE: As the hon. member says, there are few public companies with less than 50 shareholders.

Clause put and passed.

Clauses 3 and 4—agreed to.

Clause 5—Section 271 amended:

Mr. COURT: I have no objection to paragraphs (a), (b) (c) and (d), but paragraph (e) introduces a new principle which I do not think is sound. If the Government insists on this provision, it should provide a limit just as has been done in regard to the other provisions of this clause. If there is a limit imposed on the preferential claims, employees will see that their leave is taken regularly.

The Minister for Justice: Is that not the responsibility of the company?

Mr. COURT: It is also the responsibility of the employee to take his leave regularly. Often employees for their own reasons try to accumulate leave. There should be a ceiling of £50 provided, in my opinion. I move an amendment—

That after the word "resolution" in line 9, page 3, the words "not exceeding fifty pounds" be added.

The MINISTER FOR JUSTICE: I think the limit is in the hands of the company and this might penalise employees who wish to accumulate leave. A manager who worked on to help a company over a lean period could be penalised if it failed. I oppose the amendment.

Mr. Court: Would the Minister agree to a higher limit?

The MINISTER FOR JUSTICE: I would agree to £150.

Mr. COURT: I ask leave to withdraw my amendment.

Amendment, by leave, withdrawn.

Mr. COURT: I move an amendment—

That after the word "resolution" in line 9, page 3, the words "not exceeding one hundred and fifty pounds" be added.

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

Clauses 6 and 7—agreed to.

Clause 8—Section 345 amended:

Mr. COURT: I wish to record my protest at the use of the words "prescribed fee" instead of the insertion of a specific sum. I do not want the Minister to think that I have weakened because the sum of "one shilling" is used instead of some larger sum.

Clause put and passed.

Clause 9—Sections 362A—362D inserted:

Mr. COURT: I move an amendment—

That the words "the names, residences and occupations" in line 21, page 5, be struck out and the words "the names and addresses" inserted in lieu.

I do not want to be pedantic, but the wording of my amendment is designed to ease administration. I do not think much serious thought was given to the words "the names, residences and occupations" because the names and addresses are the important questions to the companies office and the general public. What the term "residences" means, I do not know. Many people have business and residential addresses and I think that if they give a clear legal address plus their name, that should be sufficient; and whether they are pastoralists, plumbers or anything else is not important so far as this section is concerned.

The MINISTER FOR JUSTICE: I have had all the amendments to this clause investigated and I signify agreement to them all.

Amendment put and passed.

Mr. COURT: I move an amendment—

That the words "statutory declaration" in line 27, page 5, be struck out and the word "certificate" inserted in lieu.

I think too much use is made of the reference to statutory declarations and it has the effect of undermining their importance in the minds of the general public, if we use the words too often and unnecessarily. A certificate under the Companies Act is still a very onerous document. I think there is ample protection under the Companies Act for the use of the word "certificate" instead of the words "statutory declaration," and I am pleased to note the Minister has agreed to the replacement in each case.

Amendment put and passed.

On motions by Mr. Court, clause further amended by—

Striking out the words "statutory declaration" in line 13, page 6, and inserting in lieu the word "certificate";

Striking out the words "statutory declaration" in line 17, page 6, and inserting in lieu the word "certificate".

Clause, as amended, agreed to.

Clause 10—Agreed to.

Clause 11—Section 369 amended:

Mr. COURT: I move an amendment—

That after the word "amended" in line 12, page 7, the following be inserted:—

(a) by adding after the word "granted" at the end of paragraph (i) of the proviso to paragraph (b) of Subsection (1), the words "or in the case of interests to which Section 370A applies".

(b)

I was forced to submit this to the Minister at a rather late stage because a legal eagle found that there was a minor difficulty in view of the new proposed Section 370A. It is a question of nomenclature and the idea is to exclude from Section 369 the interests which are to be fully covered under Section 370A. Members will note

that Section 370A is on the notice paper and is a rather comprehensive section dealing with statutory requirements in regard to unit trusts.

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

Clause 12—Section 370A inserted:

Mr. COURT: I move an amendment—

That after the figures "12" in line 17, page 7, the figure and brackets "(1)" be inserted.

It is necessary to create another subclause in the clause to give effect to subsequent amendments.

Amendment put and passed.

On motions by Mr. Court, clause further amended by—

Striking out the figure and brackets "(4)" in line 35, page 7, and inserting the figure and brackets "(5)" in lieu;

Striking out the figure and brackets "(4)" in line 39, page 7, and inserting the figure and brackets "(5)" in lieu;

Mr. COURT: I move an amendment—

That after the word "shares" in line 24, page 9, the following proviso be added:—

> Provided that where such interest consists solely of rights or interests in stocks shares or securities of companies other than those of the firstmentioned company, which shares are held by a trustee under a trust deed or instrument executed by the firstmentioned company, such statement shall, in lieu of the matters and reports specified in Parts A, B and C of section 47 of this Act, set out the matters and report specified in Part D of that section.

The object is to secure machinery to give effect to the long set of provisions I have on the notice paper, being the requirement for Part D. Members will notice on the right-hand column of page 7 of the notice paper the long list of requirements that extends to the whole of that page and on to page 8. Without this proviso, we would not incorporate properly the requirements in respect of unit trusts.

Amendment put and passed.

Mr. COURT: I move an amendment—

That the figure and brackets "(4)" in line 7, page 13, be struck out and the figure and brackets "(5)" inserted in lieu.

Amendment put and passed.

Mr. COURT: I move an amendment—

That proposed new Subsection (9), lines 5 to 13, page 15, be struck out.

The effect of proposed new Subsection (9) would be to make it obligatory for these companies which deal in unit trusts to file each year with the registrar a complete list of people who had interests in those units. Experience has shown that these particular lists of people are ready-made targets as investors for unscrupulous people to prey on.

During his second reading speech the member for Leederville quite rightly said that these unit trusts in the main attracted small investors—people who could not buy portfolios of shares on the Stock Exchange. They are calculated to enable the small investors to have a widespread interest in these bigger companies, otherwise they would be denied that interest. It can be argued that these limited companies now have to file each year a complete list of their shareholders and that those lists would be available to the unscrupulous people I have mentioned who might try to get them to invest in doubtful schemes.

But the circumstances are different. The average shareholder in the bigger companies would be a different type of person to the widows and others who invest in unit trusts and who are not accustomed to handling their own financial affairs. They know that the exacting provisions of the trust deeds, and the requirements we are now proposing to write into the Companies Act will protect them under these unit trusts. It would be a bad thing if we threw these lists open to enable unscrupulous people to prey on such investors. If the registrar felt he must have them, surely it would be sufficient if the lists were filed under seal!

I understand that in Victoria it was found necessary to grant permission to companies to file such lists in sealed envelopes, so that they were not available except to the registrar and other properly appointed officer-bearers. That indicates that the administration in Victoria has found some restriction necessary to keep those lists away from unscrupulous people.

That is the sole object of the amendment. There is no intention to withhold information from the registrar for any ulterior motive. The amendment has been put forward in the best interests of company law in this State, and as a protection to investors. If instead of deleting that provision completely, the Minister prefers an amendment to be inserted to enable the lists to be filed in sealed envelopes, I will be agreeable.

The MINISTER FOR JUSTICE: I have caused this amendment to be investigated. The registrar, who has always been very co-operative in company matters, wants to see sufficient protection being given to the public. He has asked that every company which is a party, except as trustee, to a deed in this connection, shall, before the 30th April in every year, file with the

registrar a return containing the list of all persons who on the 31st March of that year were holders of interest to which this section applies, and to which the deed relates, showing the names and addresses and the extent of their holding of such interest. I do not think that this requirement will give the information to those unscrupulous persons mentioned by the member for Nedlands.

Mr. Court: It gives the names and addresses as a mailing list of persons.

The MINISTER FOR JUSTICE: Undoubtedly such list could be used as a mailing list by some persons. It is not viewed seriously that this obligation to file an annual list of shareholders should be discontinued. A list of unit holders is analogous to a list of shareholders. If the information were available in a sealed envelope that might be sufficient; but I do not know the view of the registrar. He is anxious to safeguard the Act, and does not want to leave any opening for an unscrupulous company to avoid the provisions. He wants access to all possible information. On those grounds I oppose the amendment.

Mr. COURT: The amendments were introduced only with the object of making the legislation work better. I am not suggesting that companies be relieved of the obligation to supply this information, but I am sincere in my suggestion that this ready-made mailing list is much more dangerous than the mailing list to be obtained of ordinary shareholders in public companies. The list of shareholders of companies like the Swan Brewery, Swan Portland Cement, or the B.H.P. would show a fairly hard-bitten lot of shareholders who would not become prey to the unscrupulous go-getter type of promoter.

With owners of interests in unit trusts, we are dealing with a different type of person. All I want to do is to protect those persons. I would withdraw my amendment if the Minister would agree to re-examine this provision with the registrar, to see if the information could be lodged in sealed envelopes, to be available to the registrar or his authorised officers.

Amendment, by leave, withdrawn.

Mr. COURT: I move an amendment—

That after the word "Gazette" in line 26, page 16, the following new subclause be inserted:—

(2) The principal Act is further amended by inserting at the end of section 47 the following:—

Part D—The following matters and report are required to be stated, in a case to which the proviso to paragraph (a) of subsection (4) of section 370A of this Act applies, in the statement required by that paragraph to be issued:—

1. The date of the statement.
2. The date of and parties to the deed referred to in subsection (5) of section 370A of this Act.
3. The date of and parties to any deed or instrument by which any of the provisions of the firstmentioned deed has been amended or abrogated.
4. The name of the trustee under any such deed and the address of the trustee's registered office.
5. A summary of the provisions of the deed regulating the retirement, removal and replacement of the trustee.
6. The name of the company referred to in subsection (4) of section 370A of this Act (hereinafter called "the management company") and the address of its registered office.
7. A summary of the provisions of the deed regulating the retirement, removal and replacement of the management company.
8. The name and address of the auditor of the trust declared by the deed.
9. A summary of the provisions of the deed regulating the appointment, retirement, removal and replacement of such auditor.
10. The period of the trust declared by the deed and a summary of the provisions of the deed for the winding-up of the trust on its termination.
11. The nature of the unit or sub-unit of interests issued or offered to the public for subscription or purchase and the description and number of the stocks, shares or securities to which such interests attach.
12. The method of calculation provided by the deed of the greatest price at which the management company may sell any such unit or sub-unit of interests.

13. What obligations are imposed under the deed upon the management company to purchase from holders thereof the units or sub-units of interests for which they have purchased, and a statement of the method provided by the deed for the calculation of the purchase price of such units or sub-units.

14. A summary of any provisions of the deed whereby investments made thereunder may be varied.

15. Full information regarding the remuneration of the trustee and the management company respectively and the manner in which under the provisions of the deed such remuneration is provided for and what (if any) charges are made in respect of such remuneration upon the sale of or subscription for a unit or sub-unit of interests under the deed and upon the distribution of income and capital thereunder.

16. Whether units or sub-units of interests are transferable by the holders thereof and, if so, a summary of the provisions of the deed regulating such transfer.

17. A summary of the provisions of the deed regulating the distribution to the holders of units or sub-units of interests of the income of the trust.

18. If any reference is made to the yield of income obtained or to be obtained by the holders of units or sub-units of interests, a statement as to whether and to what extent other than cash receipts by way of dividends, interest or bonuses has been taken into account in calculating the yield.

19. A summary of the provisions of the deed regulating the convening of meetings of holders of units or sub-units of interests.

20. The names and the date of commencement of operation of any other unit trusts conducted by the management company during the five years immediately preceding the date of the statement.

21. A statement that certificates shall be allotted by the trustee to purchasers of or subscribers for units or sub-units of interests purchased or subscribed for pursuant to this statement not more than six months from the date appearing in paragraph 1 hereof.

22. A report by accountants who shall be named, setting out—

(1) in respect of the interests referred to in the deed—

(a) a statement setting out the number of distributions of income in respect of each unit or sub-unit of interests during the five years immediately preceding the date of the statement, the amount of each such distribution and to what extent each such distribution consisted of anything other than dividends, interest or bonuses and if so the nature and amount of such other components;

(b) a statement setting out the selling price and the purchase price respectively of such units or sub-units of interests on each of the dates upon which each such distribution of income was made by the trustee;

(c) a statement setting out the selling price and the purchase price respectively of such units or sub-units of interests on the date immediately preceding the date of the statement;

(2) in respect of units or sub-units of interests referred to in the deeds relating to each of the other unit trusts (if any) conducted by the management company during the five years immediately preceding the date of the statement, similar information to that required by subparagraph (1) hereof.

23. The names, descriptions and addresses of the directors, solicitors and secretary of the management company.

This amendment calls upon the trust company to furnish a very considerable amount of statutory information. In fact, it is the information which would be supplied in lieu of the normal prospectus. In view of the fact that a trust comprises a portfolio of investments, it is impracticable to issue a prospectus for each of the companies in the portfolio. For instance it may have 50 companies in the portfolio including B.H.P., I.C.I., Dunlop Rubber and others. It would be absurd to insist on the unit trust issuing prospectus information for each of the companies, most of which have been on the Stock Exchange for 50 years and have withstood the investigations of investors and the Stock Exchange. I think it is a comprehensive and desirable list.

The Minister for Justice: It is a great improvement to the Bill.

Mr. COURT: It is interesting to note that a company operating at the present moment in this State already voluntarily does these things. Therefore, we are only making lawful something which is being voluntarily done, and it cannot be claimed by people in future that it is unduly onerous.

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

Clauses 13 and 14—agreed to.

Clause 15—Amendment of various sections as to penalties:

Mr. COURT: This clause is the one which sets out in a neat table the various onerous increases in penalties. I have already explained to the Committee my views regarding these penalties. However, for some reason or other, the Minister for Justice feels that we should have heavy penalties in our company law.

The Minister for Justice: They are not heavy.

The Premier: That is why he is known as the Minister for Justice.

Mr. COURT: The Minister for Justice has said that in his opinion the penalties are only being adjusted to give effect to changing money values; and, as a general principle, he agrees that all penalties should be so adjusted.

The Minister for Justice: You have agreed to that in this Bill.

Mr. COURT: I have in one clause which deals with benefits to accrue to employees. I can see that that was a desirable adjustment, but I consider existing penalties are adequate. In this Bill they are pretty vicious. I do not think members realise how heavy the day-to-day penalties are. One can do something wrong under this legislation and find oneself up for diabolical penalties. Last year the Minister for Labour did yoeman service in trying to get penalties in the Industrial Aritration Act cut. They are only a pin-prick to those in this legislation.

The Minister for Labour: What happened to them?

Mr. COURT: Had I known I had such an ally in the Minister for Justice, I could have suggested they should reflect changing money values.

The Minister for Labour: The circumstances are different altogether.

Mr. COURT: I did not realise the strength I could have gathered from the Minister for Justice. I oppose this clause because there is no need to increase these penalties as proposed. The parties—promoters, managers, secretaries and directors—in this State have been commendable, and the Minister has produced no evidence that there is need to increase these penalties as a means of restraining or punishing these people. Therefore I oppose the clause.

The MINISTER FOR JUSTICE: I feel these increases are quite just. They are only included in the measure to bring the penalties into line with the value of money today. There is no need for anybody to fear these penalties unless they offend.

Mr. Court: I advanced that same argument last year in regard to the Industrial Arbitration Act and the Minister was completely unmoved.

The MINISTER FOR JUSTICE: I do not see why they should not be brought in by regulation. An example was set, I repeat, in 1948.

Clause put and passed.

Title—agreed to.

Bill reported with amendments.

## BILL—BUSH FIRES ACT AMENDMENT.

*Second Reading.*

Debate resumed from the 26th September.

**MR. PERKINS** (Roe) [9.38]: I listened carefully to what the Minister for Lands had to say when introducing this Bill to amend the Bush Fires Act. As I understand the measure, it seems to me that the Minister gave a reasonably full exposition of what is proposed in the Bill. Members will recall that there was considerable discussion in this Chamber when

the parent Act was originally introduced; and some of the points in the parent Act which it is now proposed to amend, were the object of detailed discussion at that time. I think that the experience gained by the Bush Fires Board in the meantime has justified the present proposed amendments to the legislation. I do not think the Minister specifically stated this, but I presume that the Bush Fires Board is unanimous in its support of the proposed amendments. Certainly, from what the Minister had to say, we can assume that is so.

Approximately 10 changes are proposed in the legislation, and the Minister dealt in some detail with each of them. The explanations he gave were reasonable. I know from personal experience that some of the difficulties he mentioned have actually arisen in certain of the country districts. It is proposed to give greater flexibility to the legislation by allowing some discretion to the local controlling body in determining what are proper burning times, so that in periods of great fire hazard the local controlling body will be able to prohibit burning off. Presumably the local controlling body could be authorised to prohibit the use of tractors when there was a great fire risk on a hot day during harvesting operations. That actually is the procedure in certain districts now.

There is also provision to allow for clover burning, not only for the gathering of seed but also to improve the germination of the clover in irrigation districts. Provision is made, too, dealing with the fuses used in blasting operations. I understand, from some members who are more conversant than I am with the forest areas, that there is a small amount of risk in the use of log-splitting apparatus. Presumably this provision would cover the necessary precautions in the use of such apparatus.

Another difficulty which has arisen is where a fire spreads from the area of one local authority into the areas of adjoining local authorities. There has been difficulty in the matter of bush fire control officers extending their operations into the area of a neighbouring local authority; but the amendments proposed by the Minister seem to be quite reasonable, and they certainly extend some protection to the personnel of the brigades as well as to the other people fighting the fire, who are directed by these bush fire control officers.

Yet another provision deals with protective burning on roadsides. Possibly the interpretation of the wording of the Act has been stretched a little to enable this to be done. I think the Minister has done the right thing here to regularise what is, in fact, the present procedure. There is also provision to impose penalties on people who wilfully damage fire-fighting apparatus—such as, for instance, water provided in drums, and other similar apparatus that is necessary to cope with the emergency that arises when a fire breaks out. This also seems to be a reasonable proposition.

Another provision which possibly only regularises what is done at present is the one enabling power to be delegated, under the Act, to the secretary of the local authority or a local bush fire control officer when he considers he is suitable to assume control in an emergency.

These are the principal provisions in the Bill; and in my opinion, each one is reasonable, so that the House could well agree with the measure. I support the second reading.

**MR. I. W. MANNING** (Harvey) [9.47]: I support the Bill. Several important points in the measure have been touched on; and one in particular I am pleased to see is the provision allowing more discretion to be given to the local authorities in handling bush fire problems. Members of road boards come from various wards, and they are familiar with the set-up of the district and know what is required in the way of fire control. These people should be able to present their views; and, as the Minister has pointed out, it is necessary that the local authorities should have the power to vary the opening and closing dates of the fire season—the prohibited period.

This is necessary because conditions in all districts are not similar, so that a law applying to one would not be suitable to another. That is a point we touched on in 1954 when the parent measure was debated. The discretion given to local authorities is a valuable one. Many farmers, to my knowledge, have experienced considerable difficulty in getting satisfactory burning done in the last couple of years. Because of the seasons, the burning period has been so late that a satisfactory burn has not been obtained before the autumn rains set in; and that is not a good thing. The idea which is favoured by the local authorities and which I favour, is to do the burning off before the worst of the summer sets in. If farmers, local authorities, and others who have burning to do can be encouraged to do it before the worst of the summer sets in, that country is a protection for the rest of the season. They should therefore be encouraged to burn early in the summer.

Mr. Nalder: I take it you would not advocate that for general purposes but only for cleaning up?

Mr. I. W. MANNING: Yes; and as a fire protection. In recent years there has not been sufficient burning done on roadsides, and they become a great hazard

during the summer. They are often difficult to burn properly, because the prohibited period starts before the work is done. If roadsides are not burnt early in the year they are not done at all, and they become a great fire hazard. I have seen bad fires started on roadsides by someone boiling a billy or throwing a cigarette butt from a passing car. I therefore urge that local authorities be persuaded to burn the roadsides early in the summer.

The Bill contains drastic penalties for vandalism. Anything we can do to eliminate vandalism should be done, particularly where it applies to such vital and valuable equipment as is involved here. There have been a number of instances of vandalism to bush fire brigade equipment, and that sort of thing is too serious to be allowed to continue. I therefore think drastic penalties are in order.

The Bill also contains a proposition to overcome the difficulty of fighting fires in the districts of adjoining local authorities. The difficulties involved have been pointed out, and I think this provision would work satisfactorily and would ensure that the fire fighters would be covered by insurance, as would their equipment also.

A further provision deals with the burning of clover to assist germination or for the recovery of seed; and it is necessary for that burning to be done during the prohibited period. So great care must be exercised in that regard. The provision in that direction relates to the irrigation districts, and I think it has sufficient safeguards attached. It is within the power of the local bush fire control authorities to say whether such burning can be done at a particular time.

Another good idea is the provision for the delegation of authority from the captain of the brigade, during his absence, to the next senior man, and even down to a member of the brigade. That is a necessary provision. I support the second reading.

On motion by Mr. Nalder, debate adjourned.

## BILL—PIG INDUSTRY COMPENSATION ACT AMENDMENT.

*Second Reading.*

**THE MINISTER FOR AGRICULTURE** (Hon. E. K. Hoar—Warren) [9.55] in moving the second reading said: This Bill contains only one important amendment, together with a series of consequential amendments; and it seeks to amend the Pig Industry Compensation Act of 1942, so as to make it possible for certain stock agents to pay their duty on the sale of pigs by cheque at regular intervals instead of having as at present, to purchase duty stamps and affix them to the prescribed statement.

Experience over the years has shown that the present method is cumbersome for the firms composing what is known as the Livestock Salesmen's Association; and it is with the idea of simplifying their work without detracting from the importance of recovering the duty and revenue required under the Act and controlled under the direction of the Department of Agriculture in a special fund, that this amendment becomes necessary.

Prior to the passage of the original Act in 1942, there was no legislation for the collection of stamp duty for the purpose of maintaining a compensation fund. During the last war, in 1942, when the relaxing of the quarantine regulations took place, a considerable quantity of pig meat was imported into this country from overseas and a serious situation developed, making those concerned give thought to the establishment of a compensation fund.

During a six weeks' period that year, some 8,000 pigs had to be slaughtered as a result of the disease known as swine fever. That was a great loss to the industry and to individual farmers who were in no way covered. The present Act provides a sound compensation fund for the payment of compensation for the slaughter of pigs owing to diseases of that kind.

Mr. Nalder: What is the amount in the compensation fund now?

The MINISTER FOR AGRICULTURE: It contains about £68,000 at present.

Mr. Nalder: Is that a rise compared with this time last year?

The MINISTER FOR AGRICULTURE: Yes. I will give the hon. member the figures. The balance as at the 1st July, 1956, was £55,415; and the revenue for the year ended the 30th June, 1957, was nearly £14,000, making a total of £69,375. The expenditure for that year was £2,489, leaving a balance of £66,886. It is a well-established fund; but the method for the collection of the levy, which is in existence today, is a very onerous and tedious one.

The Act states that the owner of pigs, or the carcasses of pigs, or the agent of any such owner, must pay a levy on the sale thereof. He must also set out a statement showing the number of pigs or carcasses sold, the amount of purchase money in respect of each pig, and the date of the sale. He must also affix to the statement duty stamps for the amount payable according to the Act, and the stamps must be cancelled.

So the difficulties confronting these livestock salesmen, and the firms concerned, can readily be seen, and it has been suggested that the amendments in this Bill

will make the procedure much easier for them, and they will be able to pay by cheque at regular intervals—probably at monthly intervals—the levy to the fund, instead of having to use the present cumbersome procedure.

The livestock agents referred to make up the body known as the Western Australian Livestock Salesmen's Association and include Westralian Farmers, Elder Smith & Co., Dalgety's and Goldsbrough Mort. These four firms between them handle about 95 per cent. of the sales of pigs throughout the whole of the State, and the Government and the association feel that the fund would not be affected in any way, but the collection of the money would be much more easily and efficiently handled under the system of payment by cheque.

Mr. Nalder: Would you allow the same privilege to bacon curers?

The MINISTER FOR AGRICULTURE: The other 5 per cent. of sales are handled by the balance of the livestock agents, and they will be expected to carry on under the same conditions as obtain at present. It would be fairly easy for them to do this, but the large firms find it extremely difficult to keep in touch with every sale and to make their records accordingly.

So it is proposed that the firms who handle the other 5 per cent., such as the bacon curers, the canners and smallgoods manufacturers, shall carry on as they do at present; and this should not be a hardship to them. At all times the Minister will have the authority, if he so desires and on applicaton, to transfer any one of these people over to the new system of cheque payment.

That is all the Bill seeks to do, and I do not think there should be any objection to it. The fund is held by the Treasury and administered by the Department of Agriculture. The whole scheme is working satisfactorily and the payment of the levy by cheque in the cases I have referred to will facilitate collections. I move—

That the Bill be now read a second time.

On motion by Mr. Nalder, debate adjourned.

## ADJOURNMENT—SPECIAL.

### THE MINISTER FOR AGRICULTURE

(Hon. E. K. Hoar—Warren): I move—

That the House at its rising adjourn till 2.15 p.m. Thursday.

I am asked to advise members that the House will sit after tea on that day.

Question put and passed.

*House adjourned at 10.5 p.m.*

# Legislative Assembly

Thursday, 3rd October, 1957.

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The SPEAKER took the Chair at 2.15 p.m., and read prayers.