

be quite so big; and I agree with Dr. Hislop when he says that the letter "s" should be inserted to make it "centres" instead of "centre." We are planning for more than one centre in Fremantle, and a board has been elected with that idea in view.

This Government has been most gracious during its three years in office, in that it has helped considerably in the provision of social amenities. It has made a good deal of money available to different organisations to assist them and has advanced £500 to help finance the scheme for providing guide dogs for the blind. However, I do not think that is sufficient, and in my opinion the sum should be increased to £1,000 at least.

The Government should give all the support possible to the centres for the aged in Perth and in Fremantle, because they will be the nucleus of further centres which will be built in the future. These old people do not want a place where they can go to sleep; they want some centre where they can meet during the day, and where they can gather and talk. We in Fremantle are lucky because we have the land and almost one-third of the money required in view.

I wish the Government success in its efforts in this direction, and I hope that the aged people, whose plight is so much before the public at the moment, will receive their just reward and all the comforts they require in their advancing years. I have much pleasure in supporting the motion for the adoption of the Address-in-reply.

On motion by Hon. W. R. Hall, debate adjourned.

#### BILLS (2)—FIRST READING.

- 1, Criminal Code Amendment.
  - 2, Plant Diseases Act Amendment.
- Received from the Assembly.

*House adjourned at 5.4 p.m.*

## Legislative Assembly

Tuesday, 11th September, 1956.

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

### PRESS PHOTOGRAPHERS.

*Statement by Deputy Speaker.*

Mr. DEPUTY SPEAKER: I wish to comment on certain happenings and to make a statement to the House. The happenings to which I refer took place on Thursday of last week. I was approached by Press representatives of "The West Australian" prior to the sitting of the House, and they asked my permission for photographs to be taken here. I refused that permission.

I was subsequently rather surprised therefore to find in Friday morning's issue of "The West Australian" that a photograph had been taken in the precincts of the House and published on that day. I was surprised because it was a flagrant violation of the rules of this House. As members know one of the relevant rules pertaining to the control and management of Parliament is as follows:—

No photographs for publication are to be taken in the building without permission first being obtained by the photographer from either the President, Speaker or the Controller.

I have also learned that a previous breach took place some nine months ago in the precincts of the Legislative Council and the matter was taken up by the President of that Chamber with the managing editor of "The West Australian," and an assurance was given to the President that no further breach of that nature would take place. I wish to read a letter that I have sent to the managing editor of "The West Australian" newspaper under today's date. It is as follows:—

Dear Sir,

On Thursday last, September 6th, the chief reporter for "The West Australian" at Parliament House approached me and asked that permission be given for taking photographs within the precincts of the Legislative Assembly.

I refused this permission and on Friday was amazed to find that a photograph had been taken of Sir Ross McLarty after he had left the Assembly Chamber.

I have ascertained from the President of the Legislative Council, Hon. Mr. Loton, that on the 29th September, 1955, as a result of a complaint he made, you had given an undertaking that your representatives would not offend again.

Under these circumstances I have no option but to report this serious breach of the rules of Parliament to members.

I make that statement because several members of this Chamber have asked me questions about the matter outside the House. They were aware at the time that permission had been refused to the Press, and that is the reason for my making this statement.

#### **BILL—PROFITEERING AND UNFAIR TRADING PREVENTION.**

##### *Message.*

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

## **QUESTIONS.**

### **FISHING INDUSTRY.**

#### *Marketing, Metropolitan Area.*

Mr. NORTON asked the Minister for Fisheries:

In view of his answers to my questions on Wednesday, the 29th August, does he consider—

- (1) That cobbler, herring and yellow eyed mullet are superior fish to schnapper and whiting, which the Shark Bay fisherman are told are a glut on the Perth market and for which they are told on many occasions there is little or no sale?
- (2) Can he account for the very stable high price which is charged to the public by retailers in Perth for most lines of fish when fishermen at Shark Bay are unable to sell their catches owing, it is said, to a glut?
- (3) Does he think that there is any significance in the fact that imported processed fish and locally caught fish constantly maintain similar prices?

The MINISTER FOR EDUCATION (for the Minister for Fisheries) replied:

(1) There is no hard and fast rule by which the inherent quality of any fish may be determined. Demand is created not solely because of quality, but because of the public liking for a certain kind of fish, or because of its attractiveness to the housewife, or because of its relative cheapness. For example, cobbler always commands a very ready sale because fried-fish sellers find the public buy it as a fried line. Whiting are always easy to dispose of if they are of good size, although small whiting, i.e., from 9 to 10 inches are not popular. Furthermore, there is a decided reluctance on the part of buyers to pay the rather high prices demanded by Shark Bay resellers for small whiting. The excuse that there is a glut is undoubtedly frequently put forward by buyers in explanation of this reluctance. Schnapper always have a ready sale, excepting perhaps at the height of what is known as the "Shark Bay" season, when lack of cool storage space is at times an embarrassment to buyers. On the other hand, the big mullet which can be caught in large quantities in Shark Bay are not generally regarded as economical, and it is not easy to dispose of them.

(2) Practically all the fish caught at Shark Bay and sold in Perth are disposed of by private treaty. Only a very small

percentage is sold in the metropolitan markets. This undoubtedly has the effect of keeping the price of most local fish at an artificially high level. There is certainly no glut of fish in Perth. Not for a long time has there been such a shortage as there is at the present moment.

(3) Imported fish, though generally regarded as being of inferior quality to the best local lines, is packed attractively and is ready for cooking without further preparation. In the mind of many consumers, this fact more than offsets its somewhat poorer quality, and its cheaper price makes it more attractive still. It is not correct to say that the prices for imported fish and local fish are constantly maintained at a similar level.

(1) The quantity of gold in fine ounces reported to the Mines Department was as follows:—

<i>Goldfield.</i>	1952.	1953.	1954.	1955.	1956 (to June).
Murchison	75,819.06	101,030.05	135,213.98	89,146.20	39,736.28
East Murchison	1,350.10	1,199.25	347.77	133.57	136.15
Yalgoo	453.90	422.70	N <sup>U</sup>	11.79	N <sup>U</sup>
Broad Arrow	3,225.39	2,550.20	2,847.73	2,734.78	905.74
<i>District.</i>					
Mt. Malcolm	24,073.12	26,239.99	26,604.56	25,437.41	10,926.11
Mt. Margaret	3,681.92	2,151.21	1,598.85	2,390.91	1,022.06

(2) Minerals, other than gold, reported to the Mines Department were:—

<i>Goldfield.</i>	1952.	1953.	1954.	1955.	1956 (to June).
Murchison	Barytes Dolomite Kaolin Red Ochre Wolfram	Cupreous Ore Red Ochre Wolfram	Barytes Cupreous Ore Red Ochre Yellow Ochre	Beryl Copper Ore Cupreous Ore Dolomite Red Ochre	Barytes Cupreous Ore Red Ochre Yellow Ochre Tin
East Murchison	Cupreous Ore Corundum Scheelite	Cupreous Ore Tin	Cupreous Ore	Cupreous Ore	Cupreous Ore
Yalgoo	Wolfram	Beryl Wolfram	Beryl	Beryl Cupreous Ore	
Broad Arrow	N <sup>U</sup>	Cupreous Ore	N <sup>U</sup>	N <sup>U</sup>	
<i>District.</i>					
Mt. Malcolm	N <sup>U</sup>	N <sup>U</sup>	N <sup>U</sup>	N <sup>U</sup>	N <sup>U</sup>
Mt. Margaret	Scheelite	Scheelite	N <sup>U</sup>	Scheelite	N <sup>U</sup>

## EDUCATION.

### (a) Kwinana High School.

Mr. LAWRENCE asked the Minister for Education:

(1) When is it proposed to go ahead with the Kwinana high school?

(2) Is it proposed to commence drawing up plans for the high school at Kwinana?

(3) Cannot the school referred to be proceeded with under a deferred system scheme?

The MINISTER replied:

(1) Subject to funds being available, it is hoped to commence building the Kwinana high school this financial year.

(2) Yes.

(3) This is being considered in relation to the overall requirements of the department with respect to the construction of additional high schools.

## MINING.

### Gold and Other Mineral Production.

Mr. O'BRIEN asked the Minister for Mines:

(1) How much gold was won during the years 1952, 1953, 1954, 1955 and 1956 in the following goldfields:—

- Murchison;
- East Murchison;
- Yalgoo;
- Broad Arrow;
- Mt. Malcolm;
- Mt. Margaret?

(2) What minerals other than gold were produced from the same fields over the same periods?

The MINISTER FOR EDUCATION (for the Minister for Mines) replied:

(b) Frankland River School Additions.  
Hon. A. F. WATTS asked the Minister for Education:

(1) What additions are proposed for the Frankland River school?

(2) Can he give any idea as to when the proposed additions are likely to proceed?

The MINISTER replied:

(1) It is proposed to add one classroom.

(2) At present no indication can be given as to when the work will proceed.

## TRANSPORT.

### Licensed Carriers Charged and Fined.

Mr. NALDER asked the Minister for Transport:

(1) How many licensed carriers were charged under the Transport Act for carting—

- wool;
- fuel;
- any other commodity;

for the year 1955-56?

- (2) What were the fines?  
 (3) Were all the charges heard in court before a justice of the peace or magistrate?  
 (4) If not, why not?

The MINISTER replied:

- (1) (a) 28  
 (b) 17  
 (c) 178.  
 (2) In respect of wool—£559.  
 In respect of fuel—£427.  
 In respect of other commodities—£3,357.  
 (3) Yes.  
 (4) Answered by No. (3).

### POLICE.

#### *Personnel in Road Districts.*

Mr. NALDER asked the Minister for Police:

- (1) How many road districts outside the metropolitan area have at least one police sergeant and constables?  
 (2) How many have only one constable?  
 (3) How many have an officer part-time?  
 (4) How many have no police officer at all?

The MINISTER replied:

It is rather difficult, if not impossible, to answer the questions in the form set out as police subdistrict boundaries do not conform to those of road districts. However, in order to assist the hon. member, I will table a complete distribution list of the Police Force which shows the strength of police at the various stations.

### PIG COMPENSATION FUND.

#### *Amounts Outstanding and Paid.*

Mr. NALDER asked the Minister for Agriculture:

- (1) What is the total amount standing to the credit of the Pig Compensation Fund to the end of August, 1956?  
 (2) What was the amount for the same period last year?  
 (3) What amount was paid in compensation to pig producers for the year ended the 30th June, 1956—  
 (a) in the metropolitan area;  
 (b) in the country areas?  
 (4) What were the diseases for which the payments were made?  
 (5) What was the number of pigs for which compensation was paid—  
 (a) in the metropolitan area;  
 (b) in the country areas?

The MINISTER replied:

- (1) £57,621 0s. 1d.  
 (2) £48,177 9s. 3d.  
 (3) (a) £1,631 1s. 8d.  
 (b) £824 12s. 6d.

(4) The diseases for which payments were made were—tuberculosis, paratyphoid and swine erysipelas.

(5) The number of pigs for which compensation was paid—

- (a) In the metropolitan area, 205  
 (b) In country areas, 127.

### MOTOR-BUSES.

#### *Average Hourly Operational Cost.*

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

What is the average hourly operational cost of running motor-buses, for—

- (a) fuel;  
 (b) repairs;  
 (c) depreciation;  
 (d) wages?

The MINISTER FOR TRANSPORT replied:

The average hourly operation costs based on a year's operation are:—

- (a) 1s. 10d.  
 (b) 2s. 7d.  
 (c) 1s. 5d.  
 (d) 10s. 1d.

### GERALDTON HARBOUR.

#### *Plan and Constructional Details.*

Hon. D. BRAND asked the Minister for Works:

(1) Will the Government obtain the services of a harbour construction consultant to confer with the Harbours and Rivers engineers on the future development of Geraldton harbour?

(2) Does he consider that any future work on the harbour should be in accordance with a plan?

(3) Is it the opinion of the Government that the original plan is sufficiently modern and broad in concept to satisfy future demands of shipping at Geraldton?

(4) As the area served by the harbour has a great potential production, and holds possibilities of new industries, both primary and secondary, what provision has been made in the plan for increased shipping accommodation?

(5) Will he lay a copy of the plan of the harbour on the Table of the House, along with the latest report of the Chief Engineer for Harbours and Rivers on the port?

The MINISTER replied:

- (1) Yes.  
 (2) Yes.  
 (3) No.

(4) Provision is made for additional berths as required.

(5) Yes.

**NATIVE WELFARE.****Declaration of Reserve, Broad Arrow-rd., Kalgoorlie.**

Mr. EVANS asked the Minister for Native Welfare:

(1) Has the Native Welfare Department decided to declare a native reserve at the eastern outskirt of Kalgoorlie near Broad Arrow-rd., where natives are regularly encamped?

(2) If the answer to No. (1) is "Yes," will any buildings such as an ablution block be erected?

(3) If the answer to No. (1) is "Yes," when will the reserve be declared?

The MINISTER replied:

(1) Yes, if the area is approved for native purposes.

(2) The sum of £1,750 was placed on the preliminary Estimates for this purpose. Provision of the facilities will be dependent upon available finance and acquisition of the land.

(3) The approval of the Mines Department has been obtained and the Lands Department has referred the matter to the local authority. If and when its approval is received, the reserve will be declared.

**Rates—**

	General.	Loan.	Total. (1)	Total. (2)	Total Income.	% (3)
<b>Municipal Councils—</b>	£	£	£	£	£	
Kalgoorlie .....	21,310	6,119	27,429	45,154	72,583	62
Boulder .....	8,037	3,386	11,422	23,031	35,063	67
<b>Road Boards—</b>						
Kalgoorlie .....	11,230	2,379	14,165	30,976	45,141	66
Coolgardie .....	1,294	516	1,810	9,033	10,843	83
Menzies .....	564	271	835	10,104	10,939	92
Leonora .....	1,185	—	1,185	8,922	10,107	88
	£43,676	£13,170	£56,846	£127,820	£184,666	60%

**MINE WORKERS' RELIEF FUND.****Payments to Silicosis Sufferers.**

Mr. EVANS asked the Minister for Mines:

(1) What is the weekly payment from the Mine Workers' Relief Fund for a man banned from further employment in the mining industry because of his suffering from advanced silicosis?

(2) Would a man receiving mine workers' relief payments, having been banned from further employment in the mining industry, and unable, because of this incapacity, to find other employment in a mining town, be eligible for a social services invalid pension if he is too young for the age pension?

The MINISTER FOR EDUCATION (for the Minister for Mines) replied:

(1) (a) A mine-worker reported to be suffering from silicosis early or silicosis advanced is not "prohibited" (banned), but is "notified" under Section 16 of the Mine Workers' Relief Act.

**GOLDFIELDS LOCAL AUTHORITIES.****Rates and Other Income.**

Mr. EVANS asked the Minister representing the Minister for Local Government:

Will he list for—

- (a) the Kalgoorlie Municipal Council;
- (b) the Boulder Municipal Council;
- (c) the Kalgoorlie Road Board;
- (d) the Coolgardie Road Board;
- (e) the Menzies Road Board;
- (f) the Leonora Road Board;

the following income for the last year known—

- (i) income from rates;
- (ii) income from other sources;
- (iii) percentage of (ii) to total income?

The MINISTER FOR HEALTH replied:

From the most readily available comparative figures the information requested is:—

(b) Under Section 13 of the Act a mine-worker is "prohibited" if he is reported to be suffering from tuberculosis or tuberculosis with silicosis.

(c) A "notified" mine-worker may elect to leave the industry, and if he does so and—

- (i) is an early silicotic, he is entitled to a percentage of his full worker's compensation consistent with the degree of silicosis he has. He also registers under Section 50 of the Act as a mine-worker who has ceased work underground, and if at some future date his health deteriorates to advanced silicosis, he is entitled to the balance of his worker's compensation, and when this has been exhausted he receives benefits from the Mine Workers' Relief Fund in accordance with Scale I. of the Second Schedule.

of the Act, i.e., £2 for a man, £2 for his wife and 10s. for each child under 16 years, per week, etc.;

- (ii) is an advanced silicotic, he is entitled to full workers' compensation amounting to £2,400 and when that is exhausted, he receives benefits from the fund in accordance with Scale I. of the Second Schedule of the Act as above.

(d) A "prohibited" mine-worker, of course, must leave the industry and—

- (i) if he has tuberculosis with silicosis,  
(c) (ii) above will apply;  
(ii) if he has tuberculosis without silicosis, it is not compensable under the Workers' Compensation Act, as it is not an industrial disease, but he receives £750 from the fund, and when this has been exhausted, he receives benefits under Scale I. of the Second Schedule of the Act, as above.

These are the general principles applying to benefits, and I feel will suffice to answer the questions without confusing the issue with exhaustive detail.

(2) This question should be referred to the Commonwealth Department of Social Services.

#### MEDICAL SCHOOL APPEAL FUND.

##### *Use for Constructional Purposes.*

Mr. ROSS HUTCHINSON asked the Premier:

(1) How much of the Medical School Appeal Fund could be made immediately available for the construction of works connected with the implementation of the purposes of the fund?

(2) If this money is not being used, why does he not use it to implement the purposes of the fund now, and by so doing, help to counteract the unemployment situation?

(3) If this money is not readily available, why is this so?

The PREMIER replied:

(1) and (2) The Medical School Appeal Fund is under the control of the University Senate and not the Government. The university advises that construction of works connected with the medical school has been proceeding for over a year. The main project, namely, the biochemistry department, is now being planned and the building will be commenced as soon as the planning is completed.

(3) All the moneys necessary for medical school works are readily available.

#### CIVIL DEFENCE.

##### *Organisation for Public Protection.*

Mr. BOVELL (without notice) asked the Premier:

(1) Is the Government taking any action to stimulate organisation for public protection of civil population in the event of war?

(2) If so, what has been done during the past six months and what is proposed in the immediate future?

(3) If the answer to No. (1) is in the negative, will he take immediate steps to appoint an all-party committee with necessary powers to create an effective protection defence organisation?

The PREMIER replied:

I sincerely hope and trust the asking of this question and the replies to be given will not in any way give any worry to the hon. member or the public. The replies are:

(1) Yes.

(2) and (3) Officers of the Government have attended conferences in the Eastern States and more recently a number of people from Western Australia, some from within the Government service and some from outside, have attended special civil defence instruction schools in Victoria. Furthermore, at a meeting of Cabinet held yesterday, consideration was given to a recommendation, which has for its purpose the appointment of a fulltime officer to organise in a practical way at least a skeleton civil defence organisation. When the proposed new officer is appointed, consideration will be given to the suggestion contained in No. (3), which is for the appointment of an all-party committee.

#### CENSURE MOTION.

##### *(a) Thursday's Action by Opposition.*

Mr. ANDREW (without notice) asked the Premier:

(1) In view of the fact that Parliament is the highest tribunal in the State, does not he consider that the action of the Leader of the Opposition and his party in going on strike in this House last Thursday is totally at variance with their (the Opposition's) consistent condemnation of any body of workers who have taken similar action?

(2) Is it not also a bad example to set to the workers and an encouragement to them to flout the Arbitration Court when, in the future, a decision goes against them?

The PREMIER replied:

I consider there could be something in the points of view suggested by the member for Victoria Park. I am sure the public will be relieved to know that members of the Opposition, on the evening of the day in question, did not refuse to eat their evening meal in the same parliamentary dining-room as members of the Government.

*(b) Time of Debate.*

Hon. Sir ROSS McLARTY (without notice) asked the Premier:

(1) Can he give me any information about when my motion will be discussed today?

(2) Can he also give me an assurance that it will be discussed at a reasonable hour?

The Minister for Works: He told you yesterday.

Hon. Sir ROSS McLARTY: How do I know when it will come on?

The Minister for Works: He told you.

Hon. Sir ROSS McLARTY: The Premier is answering me.

The PREMIER replied:

When it became apparent that not all private members would be prepared to allow the motion by the Leader of the Opposition to have precedence tomorrow, Cabinet, at a meeting held yesterday afternoon, considered the situation. Members of Cabinet decided they would not wish the matter to be carried over beyond to-morrow.

Therefore, it was agreed unanimously in Cabinet that the Government would to-day take steps to bring the Leader of the Opposition's motion up the notice paper very considerably—in fact, to raise it above 18 other Orders of the Day as they now appear on the notice paper—so that it would fall immediately after the completion of the debate on Order of the Day No. 4. Those members who have studied the notice paper will see that Orders of the Day Nos. 1, 2 and 3 are purely formal. The decision of Cabinet, therefore was and still is, that the motion of the Leader of the Opposition will, in fact, become Order of the Day No. 2.

As soon as Cabinet made the decision yesterday afternoon, I, in confirmation of an undertaking I had given the Leader of the Opposition last week, telephoned him and conveyed Cabinet's decision to him. I am not in a position to say how much time members on both sides—

Hon. Sir Ross McLarty: This is the point.

The PREMIER: —will devote to debating the Commonwealth and State Housing Agreement Bill. However, I think that not a great amount of time will be taken up in debating the measure. If the Leader of the Opposition is not satisfied with the consideration that has been shown to him by Cabinet, he could indicate that to me and I will not move at any stage today to raise his motion above some 20 other items on the notice paper, and it could then take its chance tomorrow.

**CONSTABLE HARDY.***(a) Long Service Leave.*

Hon. D. BRAND (without notice) asked the Minister for Police:

Has Constable Hardy served the full time necessary for him to qualify for long service leave?

The MINISTER replied:

I would ask the hon. member to place that question on the notice paper and the information will be obtained.

*(b) Qualification for Leave.*

Hon. D. BRAND (without notice) asked the Minister for Police:

Is it not a fact that the constable in question has been granted long service leave; and if so, was not the Minister aware of whether or not he had qualified?

The MINISTER replied:

I understand that Mr. Hardy was to start long service leave or some other leave yesterday morning. It is possible that he is taking the leave to try to recuperate from the very vitriolic attack upon him by the newspapers. It is unfortunate that that attack is still continuing and the chances are that the holiday will be no good to him.

**MARKETING OF POTATOES BILL.***Delay in Securing Assent.*

Mr. BOVELL (without notice) asked the Minister for Lands:

(1) In view of the action of the Government in amending the Act relating to the marketing of potatoes in one sitting of the Assembly without allowing producers sufficient time to become acquainted with this legislation, why was assent to the Bill delayed until after last week-end?

(2) What tonnage of potatoes has left Western Australia since Thursday of last week, the 6th September?

The MINISTER replied:

Through being away the whole week-end, from early last Friday morning, I have been unable to ascertain the reasons for the delay in having the Bill assented to, but I am making inquiries and if the hon. member is still interested, I shall make that information available to him.

In regard to the second part of the question, I am unable, without inquiry, to say what the situation is in regard to potato shipments to the Eastern States, but I should say there would be a considerable quantity.

**"THE WEST AUSTRALIAN."***(a) Flouting of Ruling by Deputy Speaker.*

Mr. ACKLAND (without notice) asked the Premier:

Will he give consideration to the statement made by the Deputy Speaker; and does he consider the management of "The

West Australian" was overstepping the mark by flouting the ruling of the Deputy Speaker?

The PREMIER replied:

Yes, I undoubtedly do agree with the question just put to me by the member for Moore and I think that he, or one of the other members of his party could, with even more justification, take up the attitude adopted in the last two paragraphs of a leading article which appeared in "The West Australian" of this week headed, "A Bill for a Business Dictator."

*(b) Action on Report.*

Mr. ACKLAND (without notice) asked the Premier:

In directing that question to the Premier, I have been advised that action on your report, Mr. Deputy Speaker, must come from the Government. I, as one member of the Country Party would much like an opportunity to debate the action of "The West Australian" not only with reference to you, but with reference to other matters as well.

The PREMIER replied:

I will undertake to bring the hon. member's suggestion to Cabinet at next Monday's meeting.

**BILLS (2)—THIRD READING.**

- 1, Criminal Code Amendment.
  - 2, Plant Diseases Act Amendment.
- Transmitted to the Council.

**BILL—EVIDENCE ACT AMENDMENT.**

Report of Committee adopted.

**BILL—COMMONWEALTH AND STATE HOUSING AGREEMENT.**

*Second Reading.*

Debate resumed from the 6th September.

MR. WILD (Dale) [4.48]: This amending Bill, introduced by the Minister for Housing last week, is one that largely conforms to the wishes of members of the Opposition. It is something for which we have been striving for a number of years. The Minister did say that the Commonwealth would not agree, prior to last year, to sell Commonwealth-State rental homes.

As members know there was an earlier amendment to the Commonwealth-State rental agreement arrived at last year by which houses could be sold on certain conditions, but this agreement, presented to the Federal Parliament approximately two months ago following agreement with the six States, goes much further than the original one, and, as I said earlier, largely conforms to what we have been pressing for over a number of years. That

is, in essence, that there should be more opportunity for individuals to own their homes.

The other evening, when this measure was introduced by the Minister, I was not present in the Chamber for certain obvious reasons. In view of the fact that I was not here, I would have thought that the Minister would have made a very reasoned and stable type of speech because he was not able to look at my ugly dial, which he hates so much. However, after reading his speech, following my forced absence from the Chamber, I was amazed to find that, as usual, he was most provocative. Quite frankly, I cannot understand why. He had the House virtually to himself and he could have gone on in a level and reasoned way and made his speech without any opposition.

Instead of that he made quite a number of statements which I feel must be replied to, seeing that I am charged, as far as the Liberal Party is concerned, at any rate, with that responsibility. In the main, this agreement, as we find it today, follows the principle set down by the Commonwealth at the earlier conference held many months ago. Whilst there was a certain amount of ironing out that had to be done, I do not think the Minister was in any way entitled to say that virtually he bludgeoned his way through and made the Commonwealth do this and do that.

When Senator Spooner, the Commonwealth Minister for Housing, visited this State, I had an opportunity to discuss this proposition with him and whilst I cannot remember all the various details of the agreement, I should say there is very little difference between what is contained in this proposal and the terms which Senator Spooner came here to discuss with the Minister. The Commonwealth had very firm views on this matter with which I heartily agree, namely, that it was time the large machine which we have built up at the State Housing Commission had its wings clipped to a certain extent and that the money which normally has been channelled through it in the past, should now be given to some other authorities which, under this particular agreement, would be the building societies and the Rural & Industries Bank. This conforms to what we have wanted for many years.

When the Commonwealth originally met the State Housing Ministers it submitted the premise that, in essence, it wanted the individual to have the right to build his own home and, if possible, to obtain his finance by the cheapest means and, if he so desired, through an instrumentality other than the State Housing Commission in each State. Much play was made by the Minister the other evening in regard to the increase in the interest rate from 3 per cent. to 4 per cent. The Minister



charged the Commonwealth with making an increased profit of 33½ per cent. on the interest rate which, in effect, was increasing the rent of a house by approximately 8s. a week. It was realised the Minister was making great play respecting this fact, especially after reading the speeches that were made on this subject in the Senate when the measure was originally introduced by Senator Spooner, the Commonwealth Minister for Housing and in the House of Representatives where the Bill was handled by Mr. Fairhall.

We must be reasonable about this. In 1945, when this measure was introduced by the Chifley Government, the interest rate charged on money at that time on a long term bond rate was only 3 per cent. and the Commonwealth has adhered to that rate over the years. Nowadays, however, the Commonwealth has to pay 5 per cent. on all money borrowed, so it was quite reasonable for it to say that the money which it was going to borrow from the people for issuing out on loan to State instrumentalities, had to carry approximately the same interest rate.

The Minister for Housing: But that is not loan money.

Mr. WILD: It is no use the Minister interjecting and saying that it is not Commonwealth loan money. If the Minister had read the speeches made by Senator Spooner and Mr. Fairhall and also those made by other members in Opposition, he would realise that this is loan money and even if it is augmented by money obtained from revenue from time to time, it is only because the Commonwealth cannot obtain the loan money required and therefore, can one say what is loan money and what is revenue?

The Minister for Housing: It is not loan money and it is not money that is charged up against the States.

Mr. WILD: The Minister had better read what Senator Spooner said when he introduced the Bill in the Senate at Canberra.

The Minister for Housing: I listened to him for four days.

Mr. WILD: Regardless of whether the Minister did or did not, this is money which is part of the loan funds allocated to Western Australia. If this amount is insufficient to fulfil the requirements in this application, the Commonwealth will have to take a certain amount of money from revenue and allocate it to the States so that they can carry on with their loan programmes.

The Minister for Housing: And charge them interest on revenue money.

Mr. WILD: Further criticism by the Minister was on the question of the discontinuance under this new agreement of the rebate that was previously allowed by the Commonwealth Government. Some interesting figures arose from the Commonwealth debate on this rebate question.

The Commonwealth Government, under this Commonwealth-State rental agreement, is at present netting approximately £12,000,000 per annum by way of rent throughout Australia. Under the old agreement, 5 per cent. of the rents received by the instrumentality charged with looking after the Commonwealth-State rental agreement is put into the special fund to make provision for people who do not pay their rent, for any vacant homes and to allow for the payment of rebate to those people who come under the rebate clause.

However, it is strange to note that 5 per cent. of this £12,000,000 represents £600,000 and of that amount only £300,000 is being used from that 5 per cent. fund. Therefore one can see from that, by the Commonwealth saying to the States, "You look after your own rental rebates," it is in effect saying to them, "Under this new agreement you have the right to say what the rent shall be, and whether the individual buys or rents the house." If the State instrumentality is charged with looking after this new agreement, and continues to do as the Commonwealth did, namely to retain 5 per cent. for these discrepancies, it is going to be well on the right side. Furthermore, if the tenant is in the low income group—and I have no doubt that there is still quite a number of people who are on pensions and fixed incomes who are requiring homes—he should be put into a house that was built in 1947 or 1948 when houses were being built, under the old agreement, for £1,100 and £1,200 on money borrowed at 3 per cent. However, that is something that can be amended by the State.

In effect, the Commonwealth has said, "Under this new agreement it is entirely your responsibility. You can rent these houses, sell them or do both, and you will manage them, and say what the rent shall be." In effect, it is saying to the State "You can handle the whole of the housing of Western Australia with a certain percentage of money"—of which I shall speak directly. The Commonwealth is giving the State sole control to do with it as it wishes. The agreement runs for five years from the 1st July, 1956, and under the agreement no amount is specified as to what will be given to the States each year. That is to be done by agreement directly between the Commonwealth and the States, and if they cannot agree, then it is to be done by an allocation of the Loan Council held each year.

Of the money that is allocated to the State under the agreement, for the first two years 80 per cent. is for the use of the instrumentality of the State—in this case, the State Housing Commission—and 20 per cent.—that is for the first two years—is to be allocated to building societies or any other organisation that may be nominated and approved by the Minister. After the second year, that is, for the final three years of the agreement, 30 per cent. is to

be allocated to those societies or, as is happening in Western Australia, to the building societies and the Rural & Industries Bank.

The money that is loaned by the Commonwealth to the States is repayable over 53 years. At this juncture I want to join issue with the Minister again. In replying to an interjection either by the member for Beeloo or the member for Mt. Lawley as to whether this would mean that there would be more houses built, the Minister said, "No, as I go on I will show you that there will be less." Under the agreement, whereby these building societies obtain in the first two years 20 per cent. of the funds available, and at the final three years 30 per cent., they are only allowed to borrow that money over 31 years.

An actuarial computation will show that if we lend an amount of money which is to be repaid in 31 years, we are going to build houses with the same money virtually twice over in 53 years. Accordingly, the whole matter will snowball because, starting from this year, there is going to be certain money put into this fund, and as it is repaid by the building society, so the State instrumentality has the right to lend it out again from that fund.

The States have to lend to the building societies at a rate of not more than three-quarter per cent. above what they are themselves paying and that really means, in effect, that with the bond rate as it is today, Western Australia will be able to borrow money from the Commonwealth at 4 per cent. under this agreement, while charging the building societies and the Rural & Industries Bank 4½ per cent. Of the money allocated for use by the States, 5 per cent. is to be used for people actively serving in the defence forces of Australia. This is not to be confused in any way with ex-service personnel; it is for people who are now serving in one of the permanent armed forces of the Commonwealth.

The Minister apparently did not seem to like that. He said it was a Commonwealth responsibility. If that is so, could not one say that if it is a Commonwealth responsibility to look after the defence forces of Australia in regard to housing, then it is equally their responsibility to look after the people in the G.P.O. or the Customs and Excise Departments? But the Commonwealth does not do so. Those referred to are people who are domiciled in Western Australia, and although these serving personnel are moved about from time to time, at least while they are in Western Australia, it is our responsibility to see they are housed.

As I said earlier, this agreement is something for which we have been waiting a long time. I refer particularly to the channelling of money through building societies in order to get house-building going again. I want to join issue severely with the Minister, because I think it was

very unfair of him to make the comment he did, particularly about some of the back benchers of the Federal House, and a Minister of the Crown, whom he said, in effect, put the gun at the head of the Government and said, "If you do not do this, we will not support you." The Minister for Housing had this to say about the Federal Minister for the Army, Hon. J. O. Cramer—

Then there are certain private members behind the Commonwealth who are concerned with and who are interested in real estate, and they do not like either the old agreement or the new one because, from their point of view, it represents unfair competition for them and the businesses they conduct. I was informed by a Commonwealth Minister that this whole business was taken out of the hands of the Government and it was told that if it were proposed that there was to be a continuation of the old agreement the Commonwealth Ministry would not have the support of their rank and file nominal supporters. I repeat that the substance of the opposition comes from certain members who have an interest in real estate businesses. They were most concerned about protecting their own kith and kin rather than providing homes at the minimum rate of interest.

The member for Cottesloe interjected and said, "You cannot prove that." To this the Minister replied:

As a matter of fact, I can prove it. The leader of this particular group movement—if I can use that term—is a Minister who has received a certain amount of notoriety in recent days because of his apparent desire to toss Australians into a possible conflict over the Suez Canal.

I think the Minister should be the last one in this Chamber to talk about tossing Australians into a conflict over the Suez Canal. I think the remark was very uncalled for, and whether it is necessary for this to happen or not, all I can say is "Thank Heaven, there are some Australians who would have the courage to defend their country."

The Minister for Housing: You remember that Menzies rapped him over the knuckles about that.

Hon. Sir Ross McLarty: What has that to do with the housing agreement?

The Minister for Housing: You would know had you been in your place instead of sulking outside.

Hon. Sir Ross McLarty: We have a full report of your speech.

The Minister for Housing: Save your venom for a little later when you can hit at a defenceless man. You will get a little hurry-up.

Hon. Sir Ross McLarty: I can take all that you can give me.

The Minister for Housing: You have not the capacity.

Hon. Sir Ross McLarty: You certainly put a price on yourself.

Mr. WILD: This agreement will carry the support of everybody on this side of the House. I only hope that the Government will do as the Minister suggested in the penultimate paragraph of his speech; I hope it will do everything possible to push this ahead, because as I said earlier, the building industry is in the doldrums. We have had our fights over this matter before as to why it is so, but at the moment let us be constructive and say that as soon as this Act becomes law, and with the channelling of money into the private building industry, we will be able to place in work many hundreds of builders who are unable to find employment at all at the moment.

Quite frankly, I do not think it goes far enough. I would like to see, over a period of years, the funds for private building increased steadily, as compared with the amount allocated to Commonwealth-State rental homes. While I am aware there would always be some demand for houses, particularly from those with low incomes and from people receiving superannuation and on fixed incomes. I am pretty certain that if in five or six years time, we could reverse the percentage of funds allocated for housing, instead of the State Housing Commission having to channel 30 per cent. through building societies, 70 per cent. of the money would have to be so channelled. Should that occur, I have no doubt we would have happier homes in this State and a greater stability in the building industry.

While it is not my prerogative to submit proposals to the Government, when this Bill becomes law it would be fitting for this State to agree to fall into line with the suggestions I have made, even if it meant the amendment of the Act, so that a greater amount of money might be channelled through the building societies than is contemplated at present. I support the second reading.

MR. JOHNSON (Leederville) [5.22]: I, too, support the second reading, although it is with some regret because we are not in a position to amend the schedule to the Bill which contains the agreement. It is regretted that the agreement has been reached in this present form. The provision of funds for building houses by making available the necessary finance to building societies is an admission by the Commonwealth Government that the market for investable funds has been ruined, so far as housing is concerned.

Until very recently housing societies were able to obtain the funds to meet any demand that had been made upon them; it is very proper that they should be able to do so. However, since the lifting of all forms of capital control and the direct action by the Federal Government to increase interest rates, which have resulted in the spiralling of those rates into other fields of investment, there has been a shortage of loan funds and a decrease in the funds available to building societies. In my view, the building societies are a very useful form of socialism, and I am very pleased to see the support being given to the Bill by the member for Dale. No doubt that is a step in the right direction.

Much as we support the general principle of co-operation and participation by those on low-incomes, by workers in particular, in providing funds for their own purposes, we cannot but regret that the very useful work that was done by the State Housing Commission is being restricted by making available to the building societies funds which they certainly need urgently, and which they would, but for the maladministration of the Commonwealth Government, have been able to obtain in the normal course. That is the most regrettable aspect in this issue. It is well that we should highlight the fact that the insistence by the Commonwealth Government on the channelling of funds through the building societies, is an admission that it has spoilt the loan market.

It is of further interest to note that the Federal Government is again charging us and the tenants and the potential purchasers of the houses, interest on funds which are at least in the majority, if not in the total, from taxation and not from loan. The Loan Council decided on the loan programme, and according to the Commonwealth Government none of those loan funds was for Commonwealth purposes, all being for State Government and similar purposes. The fact that the Commonwealth Government has a very considerable surplus in the recently-completed financial year and is aiming in the forthcoming year at even a larger surplus from direct taxation, and that it is using that tax surplus for supporting the loan market, does not make that money interest-paying in the true sense, because the Commonwealth is only using this surplus to plug those holes in the loan market which it has, itself, created.

The interest that is payable on the loan money which the Commonwealth Government supports is payable to itself. It is of no more value than taking money from the left pocket and putting it into the right. It is not, in any real sense, the payment of interest. It is regrettable that both the Federal Treasury and the Federal Cabinet seek a means of raising extra money at the expense of the tenants and

the future purchasers of houses built under the Commonwealth-State rental scheme. Included in that are the houses that will be built under the housing loan schemes of the building societies. That is the only point I wish to make.

I want to make it perfectly clear that the sole reason for this is the mismanagement by the Federal Government of the monetary system. It is the reason behind nearly all our troubles these days, and it stems back very many years, in particular to the time when price control was lifted, and in detail to the time of the removal of control on capital issues.

Mr. Bovell: Rubbish!

Mr. JOHNSON: That is a defect in the current agreement and it is one which I wish I could revoke in relation to those details. Knowing the manner in which the agreement has been made and put before us as a schedule which cannot be amended, it is with regret that I support the second reading.

**THE MINISTER FOR HOUSING** (Hon. H. E. Graham—East Perth—in reply) [5.29]: Apparently the importance of housing as a public and social issue has diminished somewhat in view of the fact that when the Bill was introduced last Thursday afternoon there was a single representative of the Opposition parties present—one from the Liberal Party and none from the Country Party.

Mr. I. W. Manning: Whose fault was that?

**THE MINISTER FOR HOUSING**: I assume members opposite were at fault. I am aware of the fact that it is their duty to be in the Chamber when the House is sitting. The fact that they were outside will indicate whose fault it was.

Mr. I. W. Manning: That often applies to the Minister for Housing.

**THE MINISTER FOR HOUSING**: When?

Mr. I. W. Manning: You have gone out of the Chamber while the House was sitting.

**THE MINISTER FOR HOUSING**: Not as an organised group.

Hon. Sir Ross McLarty: I have seen your party doing that when you were on this side of the House.

Mr. Ross Hutchinson: The Opposition was represented.

Hon. D. Brand: And very well represented!

**THE MINISTER FOR HOUSING**: The point is that members of the Opposition manifested their interest in this measure by deserting the Chamber, with one exception. I say that as a statement of fact. It does not bear analysing or argument. It is what happened. To confirm my

opening remarks, there was not one word of the fact in the morning Press that a Bill had been introduced the previous evening. I think that all will agree that the situation is very different from what it was, say, three, four or five years ago when housing was perhaps the major question of the day.

Mr. Wild: Your statement in the "Sunday Times" was indicative of that. I am referring to the number of people who rejected houses.

**THE MINISTER FOR HOUSING**: Yes, that is so. It bears out what the then Leader of the Opposition announced when he said that, if Labour were returned to the Treasury benches, the housing problem would be solved in three years. Subsequent events have proved that the then Leader of the Opposition, now the Premier, was correct in his assumption that if the problem were properly tackled, some surprising results would be achieved. It is not necessary for me to labour this matter because, as has already been pointed out, the Bill comprises only two or three points and the real substance of the measure is contained in the schedule in a form which it is necessary for the various States to pass in common with the Commonwealth Parliament.

I do, however, want to set the member for Dale right when he says that the present arrangement is very little different from the Commonwealth's original conception. However, as he was not here to listen, he was nevertheless able to read a copy of my address to this Chamber, and if he is not disposed to accept my word for it, he has my permission, if he requires it—and I extend to him an invitation—to wait upon the Under Secretary for Housing who was present at both of the conferences in Canberra and present at some of the discussions in Perth with Senator Spooner. He will be able to confirm what I said in my speech on the original attitude of the Commonwealth and the concessions we were able to achieve.

Mr. Wild: Are not the main principles the same?

**THE MINISTER FOR HOUSING**: No. I also indicated—and the member for Dale would know had he been in this Chamber—that there was no alternative for the States. This agreement is a document which was forced upon the States by the Commonwealth, without one single State accepting.

Mr. Wild: I said it was better than the previous agreement.

**THE MINISTER FOR HOUSING**: All I can suggest to the hon. member is that he read my speech of last Thursday in which I said that Western Australia had to accept this measure, otherwise there was every possibility that the State, whether it be the Housing Commission or the building societies—in any event, Western Australia in the broadest term—would

have run the risk of being short of several million pounds for the purposes of erecting homes. That is a risk that this Government was not prepared to take, and that also was the position in respect of the other States.

I was interested to hear the member for Dale pointing out to us when he was discussing the matter of interest rates, that this was a matter of the State's own loan moneys, and as interest was paid on the ordinary loan moneys of the Commonwealth, so it should be paid on this occasion, so far as the allocation to housing is concerned. Then the member for Dale went to excess and said he would like to see, not 20 per cent. or 30 per cent., but the great bulk of the money go to the building societies. I ask, is that a practical approach to the question? On his own words, it is the Western Australian State Government's own loan moneys and he gives his blessing to a proposal under which the Commonwealth Government has our money to lend for any other activity. The position is fantastic and absurd.

Mr. Wild: No, it is not.

The MINISTER FOR HOUSING: The Commonwealth is taking this money from the States and making it available to other people. All I wanted to do over the past three years was to provide houses in great numbers in contra-distinction to what the member for Dale did when he was Minister for Housing. If the member for Dale would strike squarely, he would not be always criticising this Government for providing sufficient homes for the people.

Hon. Sir Ross McLarty: Did not my Government want to provide houses for the people?

The MINISTER FOR HOUSING: It provided far too few.

Hon. Sir Ross McLarty: Cement was short and there was little timber and all the rest of it.

The MINISTER FOR HOUSING: As soon as there was a change of Government, there was a change in the tempo of home building.

Hon. Sir Ross McLarty: Of course, there was, because we provided the materials, and well the Minister knows it.

Mr. Wild: Tell us how the Government was able to obtain bricks and cement.

The MINISTER FOR HOUSING: We turned to the building of houses other than brick, and the member for Dale could have done the same when he was Minister, but he was too conservative in his approach. As has been pointed out here before, the member for Dale could have, during the three years he was in the chair as Minister for Housing, used his authority under the Act to direct the Housing Commission in respect of policy. However, he thought

he was a rubber stamp and the results indicate something along those lines. He did not know he was in charge of that department. No wonder his Government manoeuvred the way it did in respect of making progress.

Mr. Wild: I did not manoeuvre the way you did, because I think you built houses in three electorates, and one day I suppose Mt. Lawley will be the next.

The MINISTER FOR HOUSING: I will make this statement and give my solemn pledge—it can be accepted by the member for Dale or otherwise—that I have not directed, instructed or suggested that any house should be built in any particular constituency during the whole of the time I have been Minister for Housing.

Hon. D. Brand: Who decided on Maniana.

The MINISTER FOR HOUSING: I am aware that when the member for Dale was Minister there were certain people—there was at least one member of his party who made a personal approach to persuade the State Housing Commission from building as many houses as it was south of the river because he feared the political consequences.

Hon. D. Brand: It is just like your curly one.

The MINISTER FOR HOUSING: What curly one? I am afraid I am being dragged all over the place and away from this Bill.

Hon. A. F. Watts: I believe the Minister has been doing just that himself.

The MINISTER FOR HOUSING: We will go into details some other time. The Leader of the Country Party was himself an important absentee from the Chamber, yet he and his followers recently waited upon me in a deputation and impressed upon me the necessity for a greater number of houses to be built in the country districts. Then when a measure, which makes it possible for funds to become available for the erection of further houses, is before the Chamber, he and everyone of his followers is absent. I think, therefore, that it ill becomes the Leader of the Country Party to make the observations which he is making, when he demonstrated his lack of interest in the measure before us.

The Bill suggests that more houses will be built under this arrangement than under the original agreement which lasted for a period slightly in excess of ten years. Perhaps there could be a measure of acceptance of his point of view, but only because the Commonwealth Minister, in his prejudice against State housing authorities, allows the moneys from building societies to be a revolving fund—that is to say, the repayments will go back into an account for re-issue—but that is something that he will not do in relation to the State housing authorities.

In respect of the overall position, however, Senator Spooner's original proposition was that money should be made available to building societies to lend without any ceiling, and therefore a person who wanted to build a fine home at Dalkeith costing, say, £10,000, could possibly have the bulk of his accommodation made available from a building society.

Mr. Wild: Seeing he is a taxpayer, is he not just as entitled to have the use of the money as anyone else?

**THE MINISTER FOR HOUSING:** We see the member for Dale showing his concern.

Mr. Wild: Not at all.

**THE MINISTER FOR HOUSING:** I am endeavouring to make the point that we are anxious to see that as many houses as possible are built as a consequence of these funds; and if an amount of £5,000 or £6,000 is to go to one person in Dalkeith, that certainly will not be assisting in the provision of a greater number of homes for Western Australia.

Mr. Wild: Would not there be a great limit to that?

**THE MINISTER FOR HOUSING:** I do not know. There was no limit whatever in the proposals submitted by the Commonwealth.

Mr. Wild: I mean, would not there be a great limit to the number of people wanting to build a house for £10,000?

**THE MINISTER FOR HOUSING:** Not to that extent, perhaps, but there are many who want to build £5,000 houses; and we in Western Australia were able—I do not know what occurred elsewhere—to prevail upon the Commonwealth to impose a limit of £2,750 thereby ensuring that the money will go further by virtue of its being available to a greater number of people. As a consequence, there will be a greater number of individual homes.

What is the position of the State Housing Commission? The most that the commission will spend on a home is £2,500. The average deposit paid for State Housing Act homes is, from the figures last made available to me, £300. In other words, for £2,200 it is possible to provide a home for purchase through the State Housing Commission, but a greater sum will be available through the building societies. I repeat, I have no prejudice whatever against building societies—I commend them for the work they have done over the years—but I have an objection to some of the State Housing Commission's money being clipped off to be put into their accounts. That is the only difference I have with them.

I think, too, I should put the member for Dale right when he says that the Housing Commission will be charging the building societies 4½ per cent. It is possible for the State housing authorities to receive three-quarters of one per cent., but in order to assist the building societies for the first

year—we will see what experience reveals—the money is being made available to them at an additional charge of ½ per cent. In other words, they are receiving the money at 4½ per cent. and, as is generally known, they are lending it at 5½ per cent.

The position with regard to the Bill, with the exception of some two or three provisions, is that it embodies, as the schedule, the Commonwealth Government's proposals which have already been passed by that Government. Therefore, if we desire to participate in the scheme, it is necessary for us to adopt the schedule without amendment. I think I can say, too, that the building societies as such are quite satisfied with the general proposition as laid down in the schedule, and also with the detailed arrangements which have been worked out with the State Housing Commission and themselves, and they are looking forward to the passage of the measure at the earliest possible date so that the moneys may be made available to them.

It is necessary, in order to secure the State Housing Commission, that this legislation be passed by both Houses. There has been no undue delay in the matter. It was only last week that the final document, which is to be signed by the State Housing Commission on the one hand and the building societies on the other, was completed to the satisfaction of the representatives of both parties. I hope, therefore, that the measure will pass through this Chamber, and in a few days' time through the Legislative Council, so that these moneys can be made available to the building societies and this, of course, will make some small contribution towards alleviating the unemployment position that is, unfortunately, growing in the building trades at the present time.

Question put and passed.

Bill read a second time.

#### *In Committee.*

Mr. Sewell in the Chair; the Minister for Housing in charge of the Bill.

Clauses 1 to 3—agreed to.

Clause 4—Power to make loan agreements:

Mr. COURT: I wish to ask the Minister a question arising out of Clause 4 and also Clause 6. I understand that there is some restriction on the lending powers of the recently constituted savings banks—I refer in particular to the savings banks of private banks such as the Bank of N.S.W. and the A.N.Z. Bank—with respect to lending to building societies unless those building societies are, in fact, guaranteed by a State Government.

Now that the building societies have been brought into such close relationship with the Government through this agreement, and in view of Clause 6 which gives a floating security and charge in respect

of this agreement, has the Minister considered the possibility or advisability of entering into some negotiations with the building societies in this State to make sure they are not hindered in getting funds from the savings banks?

I should imagine that the savings bank section of the Rural & Industries Bank would use its funds to finance housing loans through the main bank itself. But in view of the fact that a considerable amount of savings bank money from the other savings banks is raised in this State, it would be a pity if it were not made available to the various lending instrumentalities in this State, such as the building societies. I know that it might be claimed that this is really irrelevant to the agreement with the Commonwealth Government, but I think the Minister will see the point I am making.

**THE MINISTER FOR HOUSING:** Notwithstanding that the Building Societies Act does not come within my jurisdiction, because of the impact, or possible impact, that it could have upon housing, I have already caused inquiries to be made and through my officers I have asked the Crown Law Department to investigate the matter. As soon as a report comes to hand, I will be referring the whole question to the Chief Secretary under whose administration that Act falls.

Clause put and passed.

Clauses 5 to 7, Schedule, Title—agreed to.

Bill reported without amendment and the report adopted.

### **MOTION—CENSURE.**

*Payment by Government to Constable Hardy—Defeated.*

**HON. SIR ROSS McLARTY** (Murray) [5.55]: I move—

That the Government is deserving of censure because of its misuse of public funds in paying £450 of the damages and costs awarded by the High Court against Police Constable Hardy in the action brought by A. L. Trobridge.

I move this motion because I am convinced that it is a justifiable one. There is no doubt that public opinion is resentful because of the Government's action in granting £450 of public money to assist Constable Hardy to meet his legal costs as a result of the verdict given against him by the High Court in what is now known as the Hardy-Trobridge case. Apart from all the Press publicity that has been given to this case, and it has been considerable, many people in all walks of life have expressed their opinions to me in regard to the matter; and I have not yet found

one of them who approves of the action of the Government in making this amount of £450 available.

So I want to emphasise the fact that I have not been wholly activated in regard to this motion by what has appeared in the Press; but I have been considerably influenced, as I said, by the amount of public opinion that I have heard expressed in regard to this matter. Also, at the outset, I want to make it perfectly clear that I am not interested in the personal issues in this case. I am interested only in the principle of the payment of public funds to a person whom three High Court judges said had acted wrongly and maliciously. From what I have read, a judge of our own Supreme Court agrees with those views. So we have four judges all of the same opinion and all of whom have expressed very strong views in regard to the matter.

**The Minister for Police:** Mr. Justice Virtue did not say that he had acted maliciously.

**Hon. Sir ROSS McLARTY:** Well, other judges did. If the Minister wants me to read what the judges said—and I do not want to misrepresent this case—I am prepared to read it word for word. I have it all here. The Minister says that Mr. Justice Virtue did not say that the constable had acted maliciously. But the fact remains that Mr. Justice Virtue did strongly condemn the constable's actions in this case.

**The Minister for Transport:** There is neither virtue nor justice in this lot.

**Hon. Sir ROSS McLARTY:** I have always been an upholder of the Police Force.

**The Minister for Transport:** Ahem!

**Hon. Sir ROSS McLARTY:** I do not know why the Minister coughs; anyway, he does not worry me. It does not alter what I have said—

**Mr. May:** Something must have tickled him.

**Hon. Sir ROSS McLARTY:**—and I will say it again; I have always been an upholder of the Police Force and if the Minister likes to read through some of my remarks which have been made in this House over the many years that I have been here, particularly on the Police Estimates, he will see that I have always consistently advocated better conditions for our Police Force.

**Mr. O'Brien:** So you should.

**The Minister for Transport:** I will listen to your speech tonight to see if you are consistent.

**Hon. Sir ROSS McLARTY:** I hope the Minister is listening to it now.

**The Minister for Transport:** I am, but. I am not very impressed up to date.

Hon. Sir ROSS McLARTY: The Minister is impressed only if what is said is in accordance with his own views.

The Minister for Transport: You are reasonably right.

Hon. Sir ROSS McLARTY: I would say that I am among the great majority of people who respect a member of the Police Force because of the responsible position he holds; he is symbolic of the laws of our land. I doubt if anywhere in the world anyone would find a more widely respected body of men than the members of the British Police Force. They command respect because of their unfailing courtesy and efficiency. Anyone who has visited Great Britain comes away with that impression. If one is in need, if one is in trouble, if one requires information, one cannot get a better or more reliable friend than a member of the British Police Force. I repeat that they command respect because of their unfailing courtesy and efficiency.

Generally speaking, I would say that this can be said of our own Police Force in this State, the members of which are, in the main, courteous and efficient and people not only look upon them as guardians of the law, but also as men upon whom they can place full reliance and whom they can confidently approach when necessary. Of course, it is vital to us that we should do everything possible to uphold the prestige of our Police Force.

In moving this motion, I am extremely anxious, therefore, that I should not say anything that will lower the prestige of our Police Force or cause its members any embarrassment. However, the fact remains that a great deal has already been said and published and that is another reason why I think we should hear from the Government an explanation of why this money was paid out.

The Minister for Transport: You will!

Hon. Sir ROSS McLARTY: I realise that, in the course of his duties, a policeman at times faces difficult situations and, like all human beings, he makes mistakes. Perhaps it may be said that in many respects a policeman's life is more exacting than that of the ordinary citizen. He is called upon continually to deal with difficult situations, and naturally when he is faced with these problems daily, we realise that some mistakes may be made by him. Where legitimate mistakes are made, I think the Government has a duty to protect a constable from any claim for damages that may arise because of certain actions which he legitimately took in the course of his duties, and if he is injured whilst performing his duties, he should be liberally compensated.

Mr. May: Will you tell us whether this is a legitimate case or not?

Hon. Sir ROSS McLARTY: I most certainly will! I will tell the hon. member as I proceed, that it is not a legitimate case.

The Minister for Transport: You will learn differently later on in the night.

Hon. Sir ROSS McLARTY: If I do, the Government should have made a statement before this. It certainly will have taken a long time to do it.

The Minister for Transport: It has taken you three weeks to move this motion.

Hon. Sir ROSS McLARTY: If I think the Government is in the wrong, I am justified in moving it whether it is three weeks or three months after the occurrence.

The Minister for Transport: You were bulldozed by the Press into this.

Hon. Sir ROSS McLARTY: Of course, that is the Minister's usual cry, but it is positively untrue.

The Minister for Transport: Three weeks elapsed before you moved this motion.

Hon. Sir ROSS McLARTY: It does not matter how long I took to move it. I have made those remarks to indicate where I stand in regard to our Police Force because I do not want it to be thought, by any stretch of imagination, that in moving this motion I aim at embarrassing the members of what I think is an efficient and courteous Police Force.

Mr. Bovell: Second to none in the world!

Mr. Jamieson: Cut out the soft soap!

Hon. Sir ROSS McLARTY: I suppose I should regard the hon. member as being able to put over sob stuff, but I also suppose that I have the right to make my own explanation in my own way. No doubt the member for Beeloo hoped that tonight I would attack the Police Force, but his hopes have been dashed to the ground.

The Minister for Transport: You have spent 10 minutes apologising to the Police Force.

Hon. Sir ROSS McLARTY: I am not apologising. I am merely making statements of fact and as yet I have not adopted the tactics of the Minister for Transport in making a tirade against anyone. Let us examine this case in which £450 of public money has been paid out by the Government. Can it be said with any stretch of the imagination, that the constable acted with any commonsense in effecting the arrest of this man, Trobridge? Three High Court judges and a judge of our own Supreme Court strongly condemned his action in arresting Trobridge and charging him with what can be considered the minor offence of cruising in a taxi.

The Minister for Transport: It is still an offence.

Hon. Sir ROSS McLARTY: Yes, it is still an offence, but a very minor offence, and I venture to say that perhaps 99 per



cent. of the members of the Police Force in this State would not have arrested this man.

The Premier: That is only guesswork!

Hon. Sir ROSS McLARTY: Let me modify my statement, then. I will say that the great majority of the police in this State would not have arrested this man.

The Premier: That is still guesswork, is it not?

Hon. Sir ROSS McLARTY: That may be so, but I think even the Premier will agree that my statement is near the mark.

The Premier: No, I do not agree.

The Minister for Police: Even the Commissioner of Police did not agree with that.

Hon. Sir ROSS McLARTY: Anyway, Trobridge was not guilty of this charge. The High Court judges have all said that he was not guilty of the charge.

The Premier: No, they did not say that at all.

Hon. Sir ROSS McLARTY: Yes, they did.

The Premier: They did not; they heard a different case altogether.

Hon. Sir ROSS McLARTY: Before this debate is closed, I will suggest to one of my supporters that he reads the whole of the evidence in this case so that it can be incorporated in Hansard. There will then be no mistake at all as to what the judges did say. The fact remains, however, that Trobridge was not guilty of the charge—I refer to the charge of cruising for passengers.

The Minister for Transport: There have been people tried for murder who have been found not guilty.

Hon. Sir ROSS McLARTY: Of course there have.

Mr. Ackland: But they have not had their expenses paid; that is the crux of the matter.

The Minister for Transport: We are waiting for the crux!

Hon. Sir ROSS McLARTY: Trobridge had two passengers in his taxi; they said they had hired him and were prepared to give sworn evidence to that effect.

The Minister for Police: Nothing of the sort. He was about to pick up two passengers; he did not have two passengers in his car at all.

Hon. Sir ROSS McLARTY: Two passengers said they had hired the taxi.

The Minister for Transport: I think the two passengers fell out of the pub, anyhow.

Hon. Sir ROSS McLARTY: That is another reflection by the Minister for Transport on innocent people who are not able to defend themselves.

Hon. L. Thorn: He says he only thinks it.

The Minister for Transport: I think, too, that it is right.

Hon. Sir ROSS McLARTY: In reply to the Minister's interjection, they hired the taxi and were prepared to say on oath that they had hired it.

The Minister for Transport: That is the purpose of cruising, you know.

Mr. Ross Hutchinson: That is immaterial, anyway.

Hon. Sir ROSS McLARTY: When the constable arrested Trobridge we had this most extraordinary position. As anyone would, he naturally asked for the names and addresses of his two passengers. The constable asked Trobridge for his name and his address and the latter handed him a card with those particulars on it. The card contained his private address as well as his business address, but, from what I have read, this was refused by the constable. I notice the Minister has said that the police have been instructed not to accept these personal cards with names and addresses on them. That may be so. If those instructions have been issued, I suppose they have been issued for some reason.

The Premier: Surely the reason is obvious.

Hon. Sir ROSS McLARTY: When a person hands you a card with his name and address on it, Mr. Deputy Speaker, you generally accept those particulars as correct. It is a very common practice.

The Premier: It could be anybody's card.

Hon. Sir ROSS McLARTY: It could be, and I suppose that could be the reason for the instructions not to accept cards with names and addresses on them.

The Minister for Police: A motor-driver's licence was once accepted and was found to be false.

Hon. Sir ROSS McLARTY: That could be so. But if this card had been false, I should have thought that action could have been quickly taken to find out whether it was false. The man was a licensed taxi-driver and he had a number on his car. I feel that at times a card handed to a constable might be of assistance to him in writing down exactly the person's name and address. I have often had the experience myself of being asked my name—though I hasten to add not by a police constable.

The Minister for Transport: I am doubting that.

Hon. Sir ROSS McLARTY: When I have given my name, it has been written down as "McClarty." I have had to correct it and give the right spelling.

The Premier: I had an experience of a person who could not spell "Redvers."

Hon. Sir ROSS McLARTY: Of course, the Premier is trying to indicate to us that he has been named after a famous general, Sir Redvers Buller, who fought in the Boer War.

Mr. Bovell: He has a fight on his hands now.

Hon. J. B. Sleeman: You have nothing against him, have you?

Hon. Sir ROSS McLARTY: No, but the Premier will achieve fame in another direction.

The Minister for Transport: You will get a belting after tea.

Hon. Sir ROSS McLARTY: No matter what the Minister for Transport says, he will not intimidate me. Let us go on and find out what else happened. As I was saying, according to what I have read, not only was the card refused by the constable, but it was very rudely refused.

The Minister for Police: I hope you will remember that anybody with a licence can drive a taxi, and such people are actually doing it. There are hundreds of taxi-men who have drivers licences but do not own cars.

Hon. Sir ROSS McLARTY: We find that when Trobridge knew he was going to be charged, he proceeded to take the names of his passengers—and the judges have said this, too. But he was rudely interrupted by the constable who told him that he was not interested in his witnesses, and also threatened to handcuff him. Not only did he say he was not interested in the witnesses, but he used an adjective which clearly indicated that he was not in the least bit interested in them.

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

Hon. Sir ROSS McLARTY: Prior to the tea suspension, I was making reference to the manner in which Trobridge had been arrested, the threat to handcuff him and the difficulty he had in obtaining the names of his passengers whom he wanted to produce as witnesses. Not knowing their names or addresses, he wanted to find out. From what I can learn, these two witnesses were anxious to see that justice was done. They offered to accompany Trobridge to the police station, but the constable refused to allow them to do so. They then walked to the police station where they told the police constable that they would like to tell of what they knew about the charge against Trobridge. They said they got no satisfaction and left the building. They gave this evidence on oath. I understand they were strangers to Trobridge.

Surely it is a strong point of British justice that an accused person should be given every opportunity to produce his

witnesses and not be made to suffer the indignity of arrest unless there were good reasons for doing so. In this case I think it has been proved conclusively that there were not good reasons for doing so, and that opinion is held by three eminent High Court judges. Again, if Trobridge had committed the offence of cruising for passengers, I would have thought that he would have been proceeded against by summons. It is a very rare thing to have a case of this kind heard in our courts. It is a rare occurrence because members of the Police Force do act with commonsense and tact. In this case, a man was arrested who should not have been arrested, and, apart from the arrest, he suffered humiliation of a kind that we did not think was possible in a country like ours. Eventually he was brought before a magistrate and the charge against him was very properly dismissed.

The Minister for Police: The other person got the benefit of the doubt.

Hon. Sir ROSS McLARTY: The case was dismissed. No doubt, the Minister, like myself, has read what all three High Court judges had to say about this case. Let me tell the Minister what Mr. Justice Kitto said. If members think I might misinterpret his views in any way, I would point out that the whole of the evidence is before me. So that there will not be any misrepresentation I shall read it. Mr. Justice Kitto said—

One may well ask why an absurd charge was ever allowed to go before the court.

The judge calls it an absurd charge and asks why it was ever allowed to go before the court. In reading through all this evidence, I cannot but help ask myself the same question. Mr. Justice Kitto further stated—

Protests voiced by the stranded passengers and by other members of the public failed to recall him to his sense of decency and duty.

There is much more said by the learned judge which I do not intend to read. Let us look at what another judge said. Mr. Justice Taylor had this to say—

In view of the fact that Hardy satisfied himself that Trobridge had not been cruising or plying for hire one may wonder why he demanded Trobridge's name and address but whether or not there was any reason for this the findings of the learned trial judge disclosed an abuse of authority which is about as gross as it is possible to imagine.

Hardy's conduct which, in the opinion of the learned trial judge, so far departed from the standards commonly observed by the police force of the State, evoked a well merited stricture from him.

Strong condemnation of Hardy's conduct was, he thought, necessary not only in the public interests, but in the interests of the police force itself.

It is perhaps unnecessary to add to what His Honour has already said but I cannot forbear to say that upon the facts as found by him Hardy's conduct constituted a grave and completely unwarranted interference with Trobridge's person and liberty.

When the facts are examined it is seen that Hardy arrested Trobridge when upon the proved facts he did not even suspect that Trobridge had committed an offence and that he abused his authority in a manner which can only be accounted for by concluding that he was not actuated merely by a desire to serve the ends of justice.

He was possessed of authority which, quite obviously, he used to inflict needless suffering and humiliation on Trobridge.

It is unnecessary to speculate why Hardy so used the authority for whatever the reason, a desire to exercise his authority for its only legitimate purpose must have been entirely absent.

In these circumstances a finding that Hardy was actuated by malice is not only possible but inevitable.

In the circumstances the appeal should be allowed and judgment entered for Trobridge for the amount assessed by the learned trial judge.

Those are the words of Mr. Justice Taylor.

The Minister for Transport: What are you quoting from?

Hon. Sir ROSS McLARTY: From a Press report in the "Daily News" of Saturday, the 1st September, 1956.

The Minister for Transport: I was interested in where you got your brief.

Hon. Sir ROSS McLARTY: I understand it is a verbatim report of the judges' remarks.

The Minister for Transport: But it is from the Press.

Hon. Sir ROSS McLARTY: Yes, reported in the Press.

Mr. Lawrence: Not a very reliable source either.

Hon. L. Thorn: The member for South Fremantle has awakened.

Mr. Bovell: What would the member for South Fremantle know about that?

Hon. Sir ROSS McLARTY: As I said, Mr. Justice Taylor stated that, in view of the fact that Hardy satisfied himself Trobridge had not been cruising or plying for hire, one may wonder why he demanded Trobridge's name and address. The learned judge went on to say there was an abuse of authority which was about as gross as it was possible to imagine.

Let us hear what Mr. Justice Fullagar had to say. I am not going to read the whole lot, but this is part of what that learned judge said:—

But what happened at the station was a gross aggravation of what had gone before. That Hardy was actuated by strong personal animosity and that his whole object was to punish and humiliate Trobridge, appears to me to be placed beyond all shadow of doubt by the treatment of Trobridge at the station.

There is no suggestion that he has committed any substantive offence. Yet he is searched with some violence, his money and part of his clothing were taken from him and he is actually imprisoned in circumstances of grave discomfort and humiliation for two hours.

A thoroughly disgraceful episode then terminates with the taking of Trobridge's fingerprints before his release.

This itself was an outrage but it seems to be one for which Hardy was not directly responsible.

The Minister for Police: Did any of these High Court judges hear the evidence or were they just reading from someone else's notes?

Hon. Sir ROSS McLARTY: The Minister for Police should know that, and I am surprised that he is casting any reflection on the High Court judges.

The Minister for Police: I am not.

Hon. Sir ROSS McLARTY: They had a full copy of the State court's notes. The trial judge says further:—

No attempt whatever was made to explain or excuse the treatment to which the plaintiff was subjected. Hardy simply relied on the statute.

But it seems to me to be idle to say that Hardy's acts were done for "carrying into effect the provisions of the Police Act."

No purpose of the Police Act, no purpose of the law, could possibly be served or could possibly be supposed to be served by what was done.

The only conceivable explanation of it lies in a determination on Hardy's part to inflict punishment on a man who had in some way offended him.

He was acting, in the words of another judge, "wantonly and in abuse of his authority."

If on arrival at the police station Trobridge had been immediately released he would, in my opinion, have had a cause of action for substantial damages in respect of his arrest. I want to read an extract from the "Sydney Morning Herald" of the 7th August, 1956.

The Minister for Transport: You would be speechless without the newspapers.

**Hon. Sir ROSS McLARTY:** The Minister is never speechless. The article I refer to is headed "Detained Woman Gets £200." It reads as follows:—

The Premier, Mr. J. C. Cahill, explained in the Legislative Assembly yesterday that £200 compensation had been paid to a woman because she had been mistakenly detained by a policeman.

He said the payment was an out-of-court settlement of an action by a Mrs. Mary Clarke for a technical assault by a Constable Alderton in July, 1953.

Mr. I. R. Griffith (Lib., Sutherland) asked Mr. Cahill in the Legislative Assembly on Tuesday to explain the circumstances of the payment, which was an item in the police estimates in the Budget.

Mr. Cahill said yesterday, that in July, 1953, police went to a Stanmore house to question a woman who was believed to be responsible for a robbery.

#### Screaming Woman Put in Car.

Three constables and a civilian were in the police car. Constable Alderton was the driver.

When the other two policemen went to the front door of the house the civilian saw a woman running. He stopped her and told her the police wanted to see her.

Mr. Cahill said the woman screamed and started to run away. She was stopped and placed in the car.

Constable Alderton left the car to call the other police, and while he was absent the woman escaped from the car.

Mr. Cahill said the woman, Mrs. Mary Clarke, was found later in a nearby house. It was then found she had no connection with the case.

#### Settlement Out of Court.

Mr. Cahill said apologies were made and were accepted by Mrs. Clarke, but later her solicitors claimed substantial damages.

Proceedings were begun against Constable Alderton for alleged assault and false imprisonment, but later the police negotiated for a settlement out of court.

Mr. Cahill said that, as there had been a technical assault in the detention of Mrs. Clarke, counsel for the defendant recommended settlement, and the Crown Solicitor concurred.

"From time to time the Crown has met verdicts and costs in cases where the assault has been purely technical," said Mr. Cahill.

"Payment is recommended only where there has been no serious dereliction of duty by the police concerned,

or where the officer acted in good faith, believing that he had a right in law to act as he did."

I think that is right.

Mr. Heal: You agree with that, do you?

**Hon. Sir ROSS McLARTY:** Have I not said so? I think that is right. Here a constable was attempting to do his duty. He made a mistake that was unavoidable and the Crown came to his assistance—and I opened my remarks with a reference in that regard. I said the police should receive protection. I said that they were faced with many difficulties, that they were only human and made mistakes. I say in this case, where it is considered to be justified—there have got to be reasons—then the police are entitled to protection.

The Minister for Police: What does the hon. member call reasons? Can he explain them?

**Hon. Sir ROSS McLARTY:** I have just tried to explain them. There are many reasons I should think where a policeman might make a justifiable mistake and be excused. I do not know that I can reel them off at the present time. He might find the hon. member going home one night and because he has left his keys in the house, he might be trying to get through the window. The policeman's natural inclination would be to find out why.

The Minister for Police: I have some one else's ticket in case he does. It has not got my name on it.

**Hon. Sir ROSS McLARTY:** I would say that would be a justifiable mistake, but even so he would ask what the hon. member was doing, and being the Minister, he would no doubt be given an explanation that would satisfy him.

So far as this case of Trobridge is concerned—we have it on the authority of a magistrate and four judges—Hardy had no right to act as he did. The whole case can be said to be a disgraceful affair and a resident of this State has been treated in a manner not believed to be possible—and the person responsible for this state of affairs has been compensated by the Government to the extent of £450. The Minister for Police states that the payment of this money is not to be regarded as a precedent. But the fact remains that it is a precedent. Public money has been wrongly applied; and if it is wrong to apply it in this case, it would be wrong to apply it in such circumstances to other cases. I am not alone in this. I notice that the A.L.P. has been to the Minister.

Mr. Heal: Not in regard to the £450.

**Hon. Sir ROSS McLARTY:** Well, of course—

Mr. Heal: Work it out for yourself!

Mr. May: You would have been better off if you had gone to the Minister, too.

— The Premier: What is that green paper you have there?

Hon. Sir ROSS McLARTY: Well, as the Premier knows, I am not "red".

Mr. Lawrence: You should be!

Hon. Sir ROSS McLARTY: In "The West Australian" of the 29th August appeared an item headed, "Hardy Costs lead to Criticism". The item read as follows:—

Strong criticism of the Government's decision to pay £450 of the legal costs of Constable Frederick John Hardy was voiced at a meeting of the State executive of the Australian Labour Party on Monday night.

The costs were incurred when Arthur Lincoln Trobridge, taxi-driver, successfully brought an action against Constable Hardy for what the Full High Court described as "abuse of authority and vindictiveness."

A motion expressing concern at the use of public funds to assist a person to recover costs after successful legal action against him was agreed to and the general secretary (Mr. F. E. Chamberlain) was asked to arrange a deputation with the Minister for Police (Mr. Brady) to discuss the position.

It is understood that Mr. Brady will be asked to have Constable Hardy's personal file with him when he receives the deputation.

That shows the interest of the A.L.P.

I do not think there is any doubt at all that the Government acted wrongly in providing this £450, and it appears to me to have acted without Crown Law advice and against the advice of the acting Commissioner of Police. The Premier of New South Wales sought Crown Law advice in regard to the case I read out to the House from the "Sydney Morning Herald" of the 7th August.

The Minister for Police: The Crown Law Department has verbally agreed to the payment since.

Hon. Sir ROSS McLARTY: Since the decision was made?

Hon. D. Brand: What chance had it of refusing to agree when the Government had decided to pay?

Hon. Sir ROSS McLARTY: That is a most extraordinary thing, I think.

The Minister for Police: It might be.

Hon. Sir ROSS McLARTY: Cabinet makes a decision and the Crown Law Department agrees.

The Minister for Police: Cabinet is running the country, not the Crown Law Department.

Hon. Sir ROSS McLARTY: Of course; but I would say that the Minister would have been on much safer ground had he first sought Crown Law advice.

The Minister for Transport: You are not suggesting it was not within the province of the Government to make this grant if it wanted to?

Hon. Sir ROSS McLARTY: I am suggesting the Government did something which it should not have done.

The Minister for Transport: You will learn before the night is out!

Hon. Sir ROSS McLARTY: That is not worrying me in the slightest degree—not the slightest!

The Minister for Transport: It depends on whether you have the capacity to learn.

Hon. Sir ROSS McLARTY: The Minister spreads himself at great length. He always does—that is, when he has a gallery.

The Minister for Transport: You never attracted a gallery in your life. These people have come here to see you get a whipping tonight.

Hon. Sir ROSS McLARTY: Is that so? I think that people are more just in this country than to have that lopsided view, and I cannot imagine that what the Minister says is so.

The Minister for Transport: They are waiting for you to finish.

Hon. Sir ROSS McLARTY: I can assure the Minister I have not whipped up any gallery. Despite the fact that four judges have scathingly condemned this constable for his behaviour in this case, and damages were justifiably awarded against him, the Government decided to pay £450 of those damages. It has come out of the affair badly, and is deserving of censure because of its conduct. It has been necessary for me, in the course of this debate, to make frequent reference to the constable's name. I wish I had not had to do that. I am not pursuing Constable Hardy. Somebody drew my attention to something in the paper concerning something that happened today or yesterday. I am not in the slightest interested in that. I am not interested in what the constable is doing today. I am only interested in—

Hon. J. B. Sleeman: Betting the Government.

Hon. Sir ROSS McLARTY: —the provision of funds which I think should not have been granted in this particular case. That is the interest I have in this matter.

The Minister for Justice: The Leader of the Opposition is very uncomfortable.

Hon. Sir ROSS McLARTY: I do not know that I have much more to say.

Mr. Lawrence: When are you going to put up a case?

Hon. Sir ROSS McLARTY: There is a duty upon the Government to state why it paid this money. I do not apologise for

having introduced this motion. I have a perfect right to introduce any motion in this House when I think the time is opportune. I repeat that I deny the charge that I have been spurred on to do this through Press action. I have received many references to this case as I have travelled through various parts of the country, and they have come from all sections of the community.

The Minister for Transport: You are keeping bad company.

Hon. Sir ROSS McLARTY: No; I associate with the Minister as little as I can.

The Minister for Transport: Good on you!

Hon. Sir ROSS McLARTY: I think the public interest in this case has been aroused to a very large extent because of the fact that the people are very concerned about the future of our Police Force, and want to do all they possibly can to assist the police in the execution of their duty and the upholding of their prestige. We know that every policeman has a duty to the public. But the public also owe a duty to the police; and every decent-minded citizen of this country would set out to help the police in the execution of their duty wherever possible.

In moving this motion, I believe it will do something to clear the atmosphere. It will give the Government an opportunity to say why it paid this £450, and it will do something to assure both the public and the police that interest in the Police Force is such that we want to do all we can to maintain that high standard which has always been associated with our Police Force during the many years of its existence.

**THE PREMIER** (Hon. A. R. G. Hawke—Northam) [7.58]: In the closing stages of his speech, the Leader of the Opposition adopted a very conciliatory attitude, and I appreciate that very much. Early in his speech the Leader of the Opposition said that the House was entitled to hear reasons from the Government in support of its decision to pay £450 to Constable Hardy to assist him in meeting damages which were awarded against him by the High Court.

In that regard I point out that the Minister for Police submitted a quite full explanation of the Government's attitude to both "The West Australian" newspaper and "The Sunday Times." Whereas "The West Australian" was bashing the Government and Hardy on its front pages, it relegated the Minister's statement to a more or less inconspicuous position on one of the back pages. "The Sunday Times" cut the Minister's statement in some important particulars—probably because of pressure of space, or for some other reason or for no reason—and consequently reduced the effectiveness of the statement.

This afternoon the Leader of the Opposition asked whether Hardy showed commonsense in arresting Trobridge. I think this question goes to the very central part of the total issue, and I want to spend some time dealing with it. It was this angle indeed which weighed considerably with the Government when it was considering whether, and if so to what extent, the Government should help Hardy to meet the damages awarded against him. Hardy at the time of the arrest was acting under instructions from superior officers to stamp out, as far as it was possible to do so, the cruising by taxi-drivers for hire in city streets.

He had been given this commission or undertaking following complaints from the Minister for Transport in relation to the extent to which cruising for hire was being practised by some taxi-drivers. If we are to try to judge this issue on a commonsense basis, it is necessary to realise first of all that taxi-drivers are not babes in the wood; they do not bruise easily.

Mr. Ross Hutchinson: Would not this matter have been dealt with in a court of law?

The PREMIER: There are among the taxi-drivers some smart Alecs; there are among them some men who have quite a considerable understanding of human psychology.

Mr. Bovell: That applies not only to taxi-drivers.

The PREMIER: No, it also applies to members of Parliament on the opposite side of this Chamber. Let us get completely out of our minds the idea that Trobridge is a babe in the wood; that he does not know any tricks of the trade. When the police constable made a lawful and reasonable request, Trobridge evaded the request by passive resistance. Why did not Trobridge give his name and address verbally instead of offering the passive resistance to which I have referred? It has to be remembered, too, that there were lookers-on; observers.

Hon. Sir Ross McLarty: The High Court judges said that.

The PREMIER: They may have done. I am saying it, too, and therefore my opinion and the opinion of the High Court judges, together, should be enough to convince the Leader of the Opposition. However, it seems to me that Trobridge was deliberately following a line of passive resistance, and in doing so was trying to humiliate the constable in front of those people who were within hearing.

Mr. Court: That is your opinion only.

The PREMIER: Exactly. Does the member for Nedlands deny me the right to have it?

Mr. Court: No; but the judges had other views.

The PREMIER: I know. I am not here to justify the judges or explain their ideas or attitudes; I am here to speak on behalf of the Government. We, as members of the Government, try to assess the whole situation on a basis of commonsense. If we are fair, we must admit that the person initially responsible for the trouble was Trobridge and not the constable.

Mr. Ross Hutchinson: The judges were wrong?

The PREMIER: I am not concerned with the judges. I emphasise again, that the constable in a proper execution of his duty, asked Trobridge verbally to give his name and address. Trobridge resisted, and he continued to resist passively, this request which was, in all conscience, a reasonable one. Trobridge initially proffered a card and said, in effect, "My name and address are on the card." It could have been anybody's card, and it was not evidence that the name and address on the card were, in fact, the name and address of the person concerned. Trobridge, by handing the card, in no way incriminated himself as having given a wrongful name and a wrongful address, and therefore the constable, in accordance with his instructions from superior officers given when he first entered the force, insisted on the name and address being given verbally.

Mr. Court: From what you are saying, it would appear that Cabinet set itself up as another trial court.

The PREMIER: Not at all. I am trying to indicate the basis upon which Cabinet looked at the issue, and I say without any shadow of doubt that Trobridge initially was responsible for this trouble developing. Why did he not give his name and address verbally?

Mr. Court: I do not know. The judge said he gave sufficient; he gave a card.

The PREMIER: Of course, the hon. member does not know. I am suggesting that it was passive resistance to the constable and as a result in all probability the constable became impatient—perhaps to some extent he lost control of his temper; I do not know—and proceeded to arrest the taxi-cab driver.

I would say that in those circumstances the constable was justified in the action he adopted. In due course this matter took the form of a charge, in the police court, against Trobridge of having resisted arrest. The magistrate finally gave a decision in Trobridge's favour and said, in announcing the decision, that he had given Trobridge the benefit of a doubt. Clearly in the mind of the magistrate who heard the evidence and decided the case only a few days after the events leading to the arrest, there was not much of a dividing line between Hardy on the one side and Trobridge on the other.

Following the arrest of Trobridge, some two days afterwards, Trobridge wrote a letter to the Commissioner of Police, complaining about some things which he alleged had happened and making only one specific charge, according to the records, against Hardy. The specific charge was that Hardy had used bad language when he had first approached Trobridge asking for his name and address. The Commissioner of Police authorised Inspector Napier—I think that was the name if I remember correctly—

Hon. Sir Ross McLarty: Yes.

The PREMIER: —to investigate the allegations contained in Trobridge's letter. Inspector Napier set out to investigate the situation but was refused any assistance or co-operation by Trobridge. When the police court case was completed, I imagine that most people thought, "Well, that is that. The case has been decided and the magistrate has given a decision, based upon the benefit of the doubt to the taxi driver."

However, some months afterwards, I think nearly up to eight months, Trobridge made a public statement in one of the newspapers, which was featured in grand style, in which he made very serious allegations in regard to the treatment which he had received during the course of his arrest and subsequently at the Perth police lockup. Trobridge then proceeded to initiate an action for damages against both the Commissioner of Police and Constable Hardy. Presumably the linking of the Commissioner of Police with Hardy was a move by Trobridge's lawyers to ensure that everything which he alleged happened to him would be covered in the case.

In other words, if another constable was guilty of having done something to Trobridge at the lockup, which he thought should not have been done to him, that would be covered by linking the commissioner as one of the defendants and one of the persons claimed against. The Government committed itself to the cause of the commissioner and to the cause of Hardy by providing for their defence through the Crown Law Department.

Mr. Hearman: Did the Government intend to do that? Was that a ministerial direction?

The PREMIER: I am not clear as to whether it was a ministerial direction or not; but it certainly became a fact in the situation and a very important fact.

Mr. Hearman: Then the Government does not take credit for that?

The PREMIER: We are not taking credit or discredit; I am stating it as a fact, and I hope the member for Blackwood will accept it on that basis. A strange thing happened a very short time before the case was due to come on in the Supreme Court in Perth inasmuch as all reference to the Commissioner of Police was deleted

from Trobridge's claim. This left Hardy in the position of having to face up to the total charges and allegations which were set out in the declaration made by Trobridge against him. Hardy was defended in the Supreme Court action by the Crown Law Department and, therefore, by the Government. There cannot be any shadow of doubt about that. We cannot separate the Crown Law Department and the Government, and so the Government was committed to Hardy's cause in this Supreme Court action, which was a claim by Trobridge for damages from Hardy.

That case, as we all know, I think, was decided in favour of Hardy on the basis of some legal point, the nature of which I am not in a position to describe this evening nor does it matter. When Trobridge had the decision given against him in the Supreme Court, his lawyers presumably advised him to appeal to the High Court and an action along those lines was commenced. At this stage, when Hardy became aware that an appeal was being made to the High Court, he expressed dissatisfaction with the way his case had been handled in the Supreme Court by an officer of the Crown Law Department and he said that he was going to engage a private lawyer to defend him in the High Court. Hardy was strongly of the opinion, rightly or wrongly, that some evidence which should have been presented to the Supreme Court was not presented.

It was his opinion that his case was prejudiced in regard to merit and fact because of that and he thought that he succeeded in the Supreme Court case only because of some more or less obscure legal point which was put forward in his favour. Hardy was of the opinion that additional evidence—new evidence—could be presented on his behalf in the High Court. However, he soon came to learn that that was not so and when he found that the judges of the High Court would only consider the notes of evidence submitted to them by the judge of our Supreme Court, he was of the opinion that his case was, in fact, prejudiced but, I think, still hoped that the High Court might decide in his favour.

Mr. Court: Has he disclosed to the Government what the new evidence was so that its merit can be considered?

The PREMIER: It has been set out, at least in some respects, in the official papers.

Mr. Bovell: Does the Premier know why this was withheld at the Supreme Court hearing?

The PREMIER: No; I have not gone quite that deeply into that angle. If we go back to the beginning of this case and, as laymen trying to arrive at a fair decision based upon the facts at the beginning, we are again moved to believe that Trobridge could easily have avoided the whole situation, and prevented it from

occurring, by doing a very simple, fair and sensible thing—that would have been by answering verbally the simple question which was put to him by the constable, "What is your name and your address?" But for reasons best known to himself the taxi-driver refused to accede to that lawful, fair and reasonable request and instead kept proffering a card which the constable could not accept as sufficient evidence of the real name and address of the person concerned. I say that we have to go—

Hon. Sir Ross McLarty: That does not appear according to the evidence.

The PREMIER: That is indeed a very important fact in the situation. Another important angle which members of the Government had to take into consideration before arriving at their decision was that the Commissioner of Police, Mr. Anderson, said before the magistrate in the original action that Constable Hardy had acted correctly in the execution of his duty. In other words, the constable had done the right thing in requesting Trobridge to give verbally to him his name and address. When the Commissioner of Police makes a declaration of that kind, surely the Government is entitled, and indeed bound, to give some serious thought to his view.

Mr. Ross Hutchinson: What did the commissioner recommend in regard to the payment of damages?

The PREMIER: I will come to that point a little later. In fact, I think the hon. member will find that it was the acting commissioner who made a recommendation on that issue. Obviously, a Government has to be guided to some substantial extent in deciding whether Hardy acted correctly in the execution of his duties, by the opinion and the view of the Commissioner of Police. That, indeed, was an important factor in the consideration which the Government gave to the whole issue.

It has been argued and claimed, with some degree of logic, that the Government should have paid the whole of Hardy's damages and expenses once the Government committed itself to his case by defending him in the Supreme Court through the agency of a Crown Law officer and there might still be a good deal of logic in that claim. We cannot get away from the fact, even although it might not have a direct bearing on the situation, that some newspapers have exploited this case to the fullest possible degree.

Mr. Bovell: They are only expressing public opinion.

The Minister for Transport: Tommy rot! Public opinion!

The PREMIER: We know that the newspapers, in these modern days at any rate, do not express public opinion at all. They make it!



Mr. Lawrence: Or try to!

The PREMIER: Or try to make it, and they succeed in many cases.

Mr. Hearman: And they complain about the treatment you get financially from the Commonwealth Government.

The PREMIER: Circulation to newspapers is found to be even more important than votes are to members of Parliament at election time, and I am pleased indeed to see the knowing smile appearing on the face of the member for Nedlands.

Mr. Court: Anyone would think that I was the only one who got in.

The PREMIER: Circulation to newspapers is even more important, all the year round, than votes are to members of Parliament and candidates to Parliament at election time.

Mr. Bovell: But their circulation is governed by the amount of public confidence the newspaper has. Nobody is forced to buy a newspaper.

The PREMIER: We will see about that. The great racket—I use that word with reservation—used by modern newspapers of a particular type is what they call the human interest story. It is the story about some individual whom they turn inside out. They go into his home and do everything possible to him. They play him up with flaming headlines and they get a few people to write to the newspapers their views on the matter.

Mr. Crommelin: Like going down mines.

The PREMIER: Yes, going down mines if the hon. member likes. Let me give members a few illustrations. There is a week-end newspaper published in this State associated with the morning newspaper in respect of ownership and general control. This newspaper was battling for circulation. It was having the hardest struggle imaginable. Its financial position was not good by any means. Then what the newspaper regarded as a great human interest story appeared out of the blue written by, or at least published in the name of, the greatest human battle-axe of all time—Elsa Maxwell!

Mr. Hearman: Has this anything to do with the motion?

The PREMIER: It has something to do with the angle of the motion with which I am concerning myself at the moment.

Mr. Bovell: Has the Premier had any association with this human battle-axe?

The PREMIER: The publication of this story in serial form in this week-end newspaper had a most amazing effect. Its circulation shot up almost sky high. Those who read any instalments of the story—I must admit I read a quarter of the first one—will realise that it was a sordid,

scandalous, villifying sort of thing. Not only did the publication of this particular story in serial form, which appeared in this week-end newspaper, raise its circulation very greatly, but it even put the week-end newspaper, the "Mirror," out of circulation.

Mr. I. W. Manning: Why did you pay this £450? Tell us that!

The PREMIER: Dealing with newspaper standards—and this is in answer to the opinion of the member for Vasse that newspapers publish what the public thinks—I draw attention of members to an article which appeared on the football page of "The West Australian" newspaper last Saturday morning. I should think that this might appeal to the member for Cottesloe.

Mr. Ross Hutchinson: Your speech is certainly not appealing to me!

The PREMIER: That proves that it is a most capable, most effective and most intelligent speech!

Mr. Bovell: Self praise is no recommendation!

The PREMIER: If it were appealing to the member for Cottesloe, I would regard it as a complete flop. This newspaper, last Saturday morning, put the boots into a football umpire who was to umpire a most important football match in Perth last Saturday afternoon.

Mr. Lawrence: Who won that?

The PREMIER: By way of passing reference, in relation to the standards of our newspapers and the claim by the member for Vasse that they voice only public opinion, I want to quote now the scurrilous comments which were published by this newspaper in its editorial of last Monday under the heading of, "A Bill For a Business Dictator." After this leading article gave the Government and the Bill the works, the writer of it evidently felt, in view of something that was published in the name of the Leader of the Country Party only two or three days before, that the Bill might still get through even the Legislative Council. What did this leading article do in that regard? I will quote it in a moment, but before I do, I will say that Parliament is the highest court in the land.

Mr. O'Brien: Hear, hear!

The PREMIER: The highest court in the land! This institution makes the laws and here we have a Bill coming before us now for judgment by the members of this court, and what does "The West Australian" newspaper do? It threatens with political extinction members of the Country Party if they dare to vote for the Bill and assist to make it the law of the State.

Mr. Nalder: Do you think they will take any notice of that?

The PREMIER: I will read the appropriate portions of the article. Referring to the country members, this is what it had to say:—

Though some of them have shown a disposition to fiddle with control measures, the Country Party members of both Houses were most definitely elected on an anti-socialist platform.

Mr. Bovell: Is this a censure motion on the newspaper or the Government?

The Minister for Transport: Oh, dry up!

The PREMIER: I can understand the member for Vasse not being interested. After a few other remarks the article continues:—

... The Liberal Party, being more genuinely anti-socialist ...

Mr. Johnson: Anti-social.

The PREMIER:

... would presumably treat them as direct adversaries and oppose them in every constituency at the next election.

In other words, this newspaper which has exploited the Hardy-Trobridge case to the full in relation to boosting its circulation, threatens the judges of this Parliament with political extinction if they dare to vote for the Government Profiteering and Unfair Trading Prevention Bill!

Mr. Hearman: You will lose your hands if you continue to throw them around like that.

The PREMIER: I would say that if the member for Blackwood lost his head, it would not make any difference to him at all.

Hon. Sir Ross McLarty: When the Premier was on this side of the House, I have heard him threaten members of the Opposition that if they did not vote in a certain direction he would see that they lost their seats at the next election.

The Minister for Lands: Do not be silly!

The PREMIER: I now come to another angle of this case which I think deserves mention. I refer to it only because at least three newspapers in Western Australia have held Trobridge up as an injured innocent, as a babe in the wood or as a man who is easily bruised, while, in effect, they have condemned Hardy as being among the untouchables.

Mr. Bovell: The highest court in the land has done that.

The PREMIER: I am merely pointing out what the newspapers in this State have done. It is claimed by Hardy that when they were at the police lockup Trobridge referred to him, Hardy, as a Gestapo pig, and it is partly for that reason and partly to give the public of Western Australia a look at Hardy as a total person, that I propose now to quote some very important information which concerns the war service of Constable Frederick John Hardy.

He joined the A.I.F., 6th Division, on the 17th November, 1939, and embarked from the Eastern States for North Africa on the 16th January, 1940. He fought in the campaign to Bengazi, across to Greece, back to Crete, from where he escaped; and in March, 1941, was captured in North Africa. From there he was transferred to the P.O.W. camp at Mooseburg, Austria, from where he escaped. Three weeks later he was recaptured and was transferred to a concentration camp in Poland where he was kept for four months after which he was transferred to a P.O.W. camp in that country.

Another feature of his war record is that his P.O.W. discharge number was 92478 STALAG Camp 8B. He escaped from there in June, 1944, and through the underground movement he got back to France where he served a further six months as a flight sergeant with the Army Co-Operative Air Corps. In all he was 3½ years a prisoner of war with a period of active service of 2,178 days and he spent 1,966 days overseas. He was finally discharged on the 23rd October, 1945.

This brings me back to the point from which I started when I said that Ministers of the Crown, in considering this matter, felt that Hardy was subjected to passive resistance by the taxi-driver; by the repeated refusal of that individual verbally to answer a straight-out honest and lawful question. I ask members to turn over in their minds for a moment the question as to what effect that might easily have had on a man who had passed through the wartime experiences that Hardy had passed through. If they turn that question over in their minds and are fair, reasonable and tolerant about it, I think members will agree that the circumstances were such as to probably cause him to become impatient more quickly than he would normally have become; more quickly, possibly, than he should have; it might easily have caused him to lose control of his temper to some extent, and might also have caused him to use bad language here and there.

It was because of this information, and this knowledge, that the Government more recently decided that Hardy should be placed in a position where he could not be subjected to passive resistance, or to incidents which might easily have some detrimental effect upon his patience, or upon his control of temperament, or whatever it might be.

Mr. Court: That was the recommendation of the Chamberlain deputation to the Government.

The PREMIER: I would not know about that. None of the recommendations to which the member for Nedlands refers came before Cabinet for consideration; they were dealt with by the Minister for Police and he made his decisions accordingly.

Mr. Court: That was the statement following the deputation to the Minister for Police.

The PREMIER: It might have been. Many people have said in letters to the newspaper that Hardy is not a fit and proper person to be in the Police Force; that he ought to be sacked. I say that in view of all the circumstances, and particularly in view of the service which Hardy gave to the cause of the free nations of the world under the conditions to which I have briefly referred, a Government that sacked him would deserve itself to be sacked immediately afterwards.

Members: Hear, hear!

Mr. Bovell: We have made no suggestion that he should be sacked. As a matter of fact the motion does not deal with that.

The PREMIER: I have not suggested, directly or indirectly, that either the member for Vasse or anyone else has suggested that he should be sacked. I am saying that some of the people who wrote inflammatory letters to the newspapers declared he should be sacked.

Mr. Ross Hutchinson: So did those who led the deputations to the Minister.

The PREMIER: They might have done so.

Mr. Ross Hutchinson: Do you not agree with that?

The PREMIER: I do not agree with it. I most strongly disagree with it. Summed up, the Government made the payment which it has made, firstly, because it considered it was committed to Hardy's case when the Government defended him in the Supreme Court; secondly, because the Commissioner of Police, Mr. Anderson, declared in the police court when the case was heard there, that Hardy had acted correctly in the execution of his duty; and, thirdly, for a number of other factors which I mentioned subsequently in my speech.

It seems to me therefore that, in the circumstances of this admittedly unfortunate case, and unfortunate from many angles, we ought now, as it were, to allow the dead to bury its dead. We ought to be permitted to think that Hardy was not entirely to blame, that because of his wartime experience, if for no other reason, the offering of passive resistance to his lawful request for a verbal giving of the name and address by Trobridge to him, could have easily reacted more strongly on Hardy than it would have reacted on many of us in this Chamber.

Hon. Sir Ross McLarty: Was Trobridge a returned soldier?

Mr. Hearman: From World War I, I think.

The PREMIER: I would have no knowledge of that.

Hon. Sir Ross McLarty: If that is the case, you must make equal allowance for him.

The PREMIER: I am prepared to do that without knowing whether he was a returned soldier or not. I am prepared to do that. I am not here to try to crucify anybody. I hold no ill-will against Trobridge.

Mr. Ross Hutchinson: You found him guilty though.

The PREMIER: I did not find him guilty at all.

Mr. Hearman: You found him responsible for the whole business.

The PREMIER: I said that Ministers of the Cabinet, in their consideration of the subject, knowing that taxi-drivers as a rule are not babes in the woods, were of the opinion that Trobridge would have offered passive resistance to a simple and lawful request by a police constable for the verbal expression of the man's name and address. There is no excuse in the sun for Trobridge not verbally giving his name and address to the constable.

Mr. Court: I think there is good excuse, and the judges have said there was no need for him to give his name and address verbally.

The PREMIER: Had Trobridge given his name and address verbally, as everyone of us would have done in the same situation, the trouble would not have developed or flared up. It would not have reached the proportions it did reach, and we certainly would not be wasting the time of Parliament in discussing this matter today.

MR. HEARMAN (Blackwood) [8.45]: The speech which I have just listened to is one of the most amazing of the many amazing speeches I have heard from the Premier, and I think it is in some respects the most contemptible one from him. He attempted to judge and place the blame for the whole of this incident on Trobridge. I do not propose to debate as to who was sinning more—Trobridge or Hardy. That does not seem to have much to do with the matter at all. I do not think that members of this Chamber should go beyond the decisions of the various courts of law that have tried this case. It seems to me that judges are the people best suited to assess the various claims and to apportion the blame.

Any effort on the part of the Premier or anybody else to bring into disrepute the decisions of those courts, in my opinion, is a disservice to the courts concerned and to the public generally. One of the most amazing omissions of the Premier's speech was the fact that he did not once make reference to the reason which the Minister for Police gave in justification of the Government's action, and that was it was done in the interests of efficiency in the

Police Force. Let us have a look at that aspect for a minute and consider what the Government should have done. I have had some experience of administering discipline and maintaining morale.

Mr. Oldfield: You are telling us.

Mr. HEARMAN: The member for Mt. Lawley can bear me out. It is quite obvious if one has a subordinate, who, generally speaking, is a good man but who gets himself into trouble of some description or another, the proper thing for the superior to do is to endeavour to stick to him.

I do not say they would justify his action, but they could, and I think they have a moral duty to at least endeavour to protect him from the worst effects of his action. But they should also take steps to see that the action did not happen again, and that any opportunity for the particular person concerned to get into further trouble should, as far as possible be removed. If, on the other hand, one considers that a subordinate is behaving badly and is not worthy of assistance, then one should take the strongest disciplinary action possible under the circumstances.

The main difficulty from my point of view and from that of some members of the Opposition, is that the Government's action has done nothing to maintain discipline and morale in the force. This is a matter that does concern us all. I am expressing my opinion on this matter and I am entitled to. The reference to the file which was tabled a week or two ago indicates that the Government took no real interest in this at all until representations were made to the Minister by the Police Union. Months after the whole incident was closed, as far as the public was concerned, when it was much too late to take the desirable steps the Government should have taken to maintain morale in the force, the Government, as a result of union pressure, did what, in my opinion, was a very stupid and wrong thing. They paid £450 in damages which did nothing to allay the dissatisfaction that had obviously been created in the force.

Mr. Andrew: You did not do anything to the newspaper that blew the whole thing up. You knew the facts months ago.

Mr. HEARMAN: If the member for Victoria Park wants to make a speech and you, Mr. Deputy Speaker, permit him to do so, I shall sit down.

Hon. L. Thorn: He is speaking on behalf of Mr. Chamberlain.

Mr. HEARMAN: The point is, it may have been. It apparently was the opinion of the then Minister for Police that there was a good deal to be said in Hardy's favour. I am not presuming to judge that. I did not hear the evidence. I am not in such a good position as the magistrate, the

Minister for Police or any subsequent court to express an opinion about that, but if the Government felt there was some justification for taking this action and standing behind the police constable, then that was the time to do it before this unsettled feeling was aroused among the Police Force, which obviously must have been brought about as a result of the court's decision.

It has been traditional, of course, that the police have a perfect right to ask a person for his name and address. I think they have every justification for doing that. If it so happened because a police constable unfortunately arrested a man whom he thought had refused his name and address, that could easily be the position and he could subsequently find himself up for damages as a result of court action. That was the time the Government should have got behind the police constable and endeavoured to indemnify him against any damages. Had that been done a worthwhile job might have been achieved in satisfying members of the Police Force that they had the confidence of the Government and that, provided they behaved properly, the Government was behind them. That is most important as affecting the efficiency of any police force.

Instead of that the Government did nothing about it at all. It is true that the Crown Prosecutor subsequently appeared for the unfortunate constable in the Supreme Court and seemed to appear with some success because he got him off, as it were, but it is also quite apparent, from the remarks of the judge, that it was more or less accidental that the Crown Prosecutor happened to be acting for the policeman on this occasion and it was certainly not done at the direction of the Government. Therefore, the Government can claim no credit for assisting Hardy in that direction; it was purely accidental.

I do not want to make a point of the fact that he was assisted. I merely say the Government can claim no credit for it. If the Government had been consistent and wanted to assist Hardy—if it thought he was worthy of help and I am not saying he was not—it should have assisted him also with his High Court defence. Had it done that the Government could have said its action was one designed to maintain the confidence and morale of the Police Force, and to that extent it could have been justified.

We find that the Premier in his speech made no reference to the efficiency and the effect on the Police Force at all. He just simply tried to put all the blame on Trobridge and said it might have been, and probably could have been, and so on, which had nothing to do with this motion. We are not disputing the court decision; we are disputing the manner in which this money was paid. In my opinion it constitutes a misuse of public funds; it did nothing to bolster the morale and increase the efficiency of the Police Force.

The terms under which the Minister agreed to the payment of this money—it was asked for, incidentally, by the Police Union—were that it was not to establish a precedent, and I think that, on reading the file, that conclusion is inescapable. The Government was not concerned about taking any action until last July when it received a deputation from the Police Union. I do not blame the union for going to the Government in order to obtain assistance for one of its members, as it was probably quite justified, but I do not think the Government was justified in yielding to union pressure for the payment of this sum of money.

The Minister for Police: What is this pressure?

Mr. HEARMAN: It was merely a yielding to union pressure, and the action was not taken in regard to the efficiency of the Police Force. It was pressure by the union on the Government, through the Minister, to pay this money.

The Minister for Police: Surely that is not pressure!

Mr. HEARMAN: What else is it? That is what the file shows.

The Minister for Police: It is a request; why call it pressure?

Mr. HEARMAN: I have made many requests for laudable objects.

Hon. L. Thorn: Have you got your typewriters yet?

Mr. HEARMAN: The Government did not have the money to buy three.

The Minister for Transport: You make such silly requests!

Mr. HEARMAN: They cannot be silly requests as the Government subsequently gave me the typewriters. As I said before, the payment of this money was not going to restore the confidence of the Police Force, and that was the main ground for opposition. The other aspects were incidental. If the Government wanted to get behind this constable, it should have taken action about six months earlier. That is where it was a misuse of public funds. I think it is wrong of the Premier to attempt in justification of the Government's action, which was very belated, in re-judging the whole case here on the floor of the House. It was a most contemptible action and most unfair to Trobridge.

The Premier: The hon. member cannot stick to the truth.

Mr. HEARMAN: I am expressing an opinion.

The Premier: It is a poor one.

Mr. HEARMAN: I can see what the truth is. There are some other unfortunate aspects of this case. The Minister for Police has made various statements in an endeavour to justify Government expenditure on the basis that the defence of Constable Hardy was bungled when first heard.

Obviously, that places the Crown Prosecutor in a difficult position because it could be inferred that he was responsible. The Premier, in his remarks, did nothing to allay that suspicion. Unfortunately, the fact that the Crown Prosecutor won his case is another matter which requires clarification and one which the Premier's remarks did nothing to clarify. Rather the Premier's remarks clouded the issue, which is most unfair to the Crown Prosecutor.

The Premier: The hon. member will not make a favourable impression on the Crown Law officers.

Mr. HEARMAN: The other point not explained was that the file tabled here showed a request was made by letter from the solicitor who represented Constable Hardy in the High Court case to the Commissioner for Police, asking if some assistance could be made by the Police Department to help his client with some of his costs, and the reply of the commissioner, although it indicated that he had some sympathy for the constable, was very definite that it was not in the best interests of the force and would not be good for discipline. In view of the commissioner's explanation, it becomes all the more remarkable that the Government should decide to go completely in the teeth of that opinion and give some assistance.

The Minister for Police: Did he say it would not be good for discipline?

Mr. HEARMAN: I think he said that.

The Minister for Police: The hon. member thinks he did!

Mr. HEARMAN: He did not think he should control the High Court judges.

The Minister for Police: That is a very good reason. Why do not you tell the truth?

Hon. L. Thorn: Do not get excited!

Mr. HEARMAN: I am just making the point that the Commissioner of Police did not regard it as necessary in the interests and efficiency of the force to make any payment. Does that suit the Minister? Is he satisfied that that is not misrepresentation? The Government, for some reason not disclosed, disregarded the opinion of the commissioner and made a payment some months later after an approach by the union. It might have been helpful to Constable Hardy, but it did nothing whatsoever to maintain the efficiency of the Police Force.

Mr. Toms: The member has said that six times.

Mr. HEARMAN: To me it seems necessary to say it more than six times. I do not think that members of the Government have ever given much thought to the question of the effect their belated action might have on the Police Force. I had

hoped that the Government would have been able to act in such a manner that the confidence of the Police Force could have been maintained, because I know that on many occasions it is very necessary for a policeman to ask the name and address of a stranger. It happens frequently in country towns when the police want to know the name of a new chap who has just come into the place.

If policemen are going to be put in the position that they cannot arrest a man in this connection; or if they think there is any doubt as to the backing they will get after they do so, and there subsequently develops some unfortunate aspects of the whole business, as happened in this case, then, of course, it must have an effect on the efficiency of the force. I do not want to see that effect at all. I want policemen to feel that if they take such action in good faith, the Government of the day—whatever its political complexion—will be right behind them.

Members: That is what the Government has done.

Hon. Sir Ross McLarty: Shout in chorus! It will be more effective.

Mr. DEPUTY SPEAKER: Order!

Mr. HEARMAN: Thank you, Mr. Deputy Speaker! It seems that I have nettled somebody. I contend, as I said earlier, that had the Government come to the assistance of the police constable very much earlier—possibly before the case got as far as the Supreme Court—it would not have needed to expend nearly as much money, and could possibly have settled the matter to the satisfaction of all concerned and maintained the efficiency and confidence of the force. As it is, the Government let the thing ride on for months and months and did nothing about it whatsoever, until such time as the Police Union approached it.

In the meantime, the police constable concerned had been placed in the Liquor Branch. I want to make it quite clear that I am not making any charge against him at all; but I suggest that it would have been advisable in his own interests, and in the interests of the force generally when it was known, as in his case, that a member of the force had a debt hanging over him, which he was having difficulty in meeting, to withdraw him from duty that would bring him into contact with the public. For however honest a man may be, there are always rogues amongst the public who might seek to take advantage of the position in which he would find himself.

The Minister for Transport: That is what you people are doing now.

Mr. HEARMAN: It would have been very much more in the constable's interests, and those of the force, if he had been withdrawn from any position in which he

came in contact with the public. The Premier spent about a quarter of an hour vilifying the newspapers.

Mr. Andrew: Don't you think they deserve it?

Mr. HEARMAN: Whether they do or do not, the point I want to make is that whether the Premier is right or wrong—and he knows I disagree with him on this—public interest had been aroused in the case.

The Minister for Transport: By whom?

Mr. HEARMAN: It had been aroused. I am not saying by whom; but the Government's action was responsible to a great extent because it let the matter go without doing anything about it.

Mr. Evans: You have done nothing for three weeks.

Mr. Hall: Three years.

Mr. HEARMAN: I do not think the hon. member is well informed. I do not think he knows what I have done about it. But even if, for the purpose of debate, we accept the Premier's viewpoint in its entirety as far as the newspapers are concerned, he would have to agree that there was a terrific amount of public opinion aroused in this matter—

Mr. Evans: By the newspapers.

Mr. HEARMAN: —some for and some against. That should not have happened. It is not in the best interests of the Police Force. And it would not have happened had the Government handled this matter with a greater sense of responsibility and a greater knowledge of the requirements for the maintenance of efficiency in the Police Force. All this has been very bad for the Police Force, and the Government must accept some responsibility. It allowed this matter to ride on and on. The policeman remained in the force, owing this money, for some time. The Government must have been well aware of it.

Then, when the matter was first put to the Minister, it seems he recommended that the Government should go half-way towards meeting the total amount which was still owing—or unavailable, shall we say—and subsequently, for no reason that has been very clearly explained, we find that Cabinet exceeded the Minister's recommendation and actually made available a total of £450, which was the best part of £100 more than the Minister had recommended. Why it did that, I do not know. Why the Government could not have made a clear explanation of how it came about, I do not know. It was asked, and the reply was evaded.

Whether it happened that when the time came the Police Union found it was not able to raise as much money as it had hoped to, and the Government made up the difference, I do not know. But the inability of the Government, or its unwillingness, to explain that, is something—in

a case such as this which has aroused tremendous public interest—that leaves further ground for conjecture. And there should be no conjecture in a matter of this nature at all. Either the Government decided to support this police constable or it decided not to. If it supported him, it should have done so very much more effectively and very much earlier, and should have stopped all this hubbub which has reacted to the detriment of the force.

It has been suggested by the Premier that Constable Hardy is temperamentally unsuited for duty in contact with the public. That may or may not be the case. He mentioned the constable's war record. I say all the more credit to him for that. It is possible that the war may have left a lot of us temperamentally unsuited—

The Minister for Transport: I can think of one case.

Mr. HEARMAN: I thought the Minister would come in.

Hon. Sir Ross McLarty: The Minister did not run the risk, did he?

Mr. HEARMAN: He would not fully appreciate it because he never went through it.

Mr. Bovell: And therefore he has no authority to speak.

Mr. HEARMAN: On that ground the remark he passed was not in the best taste. However, the Minister is like that, and it does not worry me unduly. I can readily believe that the Premier and the Minister for Transport would say that I was temperamentally unsuited to be a member of the Police Force.

The Minister for Transport: More than temperamentally.

The Premier: Leave out the first part of the word.

Mr. HEARMAN: I would not take that as being severe criticism. If the Premier admits that was the case, how does he justify the Government in allowing this man to continue in duty which brought him into contact with the public for a number of months—if, as it appears, the Premier suggests that the man had demonstrated that he was temperamentally in the same category as myself—unsuitable to be a policeman in contact with the general public?

The whole manner of the expenditure of this money has, I think, achieved nothing. If I felt that it had achieved any good and useful purpose, I would say that the censure motion was not justified; but I feel it has done nothing to ensure the efficiency of the force. Although it might have helped the constable concerned, it has been done in such a manner and achieved so much publicity, that I think he would far rather not have had the money and so avoided the publicity. The Government must accept blame for the fact that it waited so long before it did

anything and then acted in a manner which was most unsatisfactory to the force as a whole and to the individual concerned.

I know that has not come from the Government, but from the Federal president of A.L.P. who is having a bob each way on this. He was a member of a deputation which discussed with the Minister the question of whether or not the constable should remain in the force, and then he comes out in an endeavour to justify the Government. If the Federal president of the A.L.P. is correct, surely the proper thing to have done was to settle the matter out of court as soon as the magistrate had dealt with the case and it was known that Trobridge was exercising his legal right and was looking for further damages. That was when the Government should have done something, and it would not then have cost nearly as much as it has; and there would have been some real return for the money expended.

As it is, I am afraid the conclusion is inescapable that the Government only paid this money—and there was only talk of its paying the money after deputation from the union to the Minister; and I think I am correct in saying that the Minister did not commit himself at the deputation but said he would take the question to Cabinet—after the matter had gone before Cabinet. I think the conclusion is inescapable that the Government was not interested in the efficiency of the force, otherwise it would not have waited until the Police Union approached it but would have done something months before. The Government apparently simply yielded to union pressure in this matter. If the Government yielded to union pressure—

The Premier: That is not true.

Mr. HEARMAN: That conclusion I said was, in my opinion, inescapable because the file indicated that the Government had done nothing about the matter until an approach was made to it by the union. The Premier cannot deny that.

The Premier: The Government made a decision when it carefully considered all the circumstances.

Mr. HEARMAN: I hope the Government did carefully consider all the circumstances because it was six or eight months, or even more, late in considering them. The circumstances that arose then were very different from what they were originally, in that they were then circumstances which the Government was largely responsible for creating because it had allowed the matter to run on. It was only after union pressure was brought to bear that the Government made any attempt to pay this money. And when it did pay the money, it did it in circumstances and under conditions which would

not enable it to achieve the object the Minister claimed it should have achieved, and for that reason I think the Opposition is completely justified in bringing a censure motion forward. It is obviously a waste of public funds to pay this money.

Of course, I know the Government is often slow off the mark in these matters. We had an illustration of that only last week, but I cannot discuss that further. Here is another instance where something was hanging over the Government for months on end, and when the Government eventually did come forward it did the wrong thing anyhow, and achieved no useful purpose whatsoever. I think the Government is obviously deserving of censure and it is amazing to me that the Premier should spend far more time vilifying Trobridge and the newspapers than attempting to justify his Government's first lack of action and then—in my opinion—its improper action.

**HON. J. B. SLEEMAN** (Fremantle) [9.14]: I would not have risen had it not been for the member for Blackwood. I cannot let him get away with all he had to say. He said the Government had not been consistent in paying this money. The member for Blackwood should be the last to talk about being consistent. Also, his leader, Hon. Sir Ross McLarty, who moved the motion tonight should not talk about the misuse of public funds. It is not long since I raised the question of £34,000 being misused by the then Treasurer, Sir Ross McLarty; and the Auditor General refused to pass it.

#### *Point of Order.*

**Mr. Hearman:** On a point of order, is this in order?

**Hon. J. B. Sleeman:** You do not like it; you were behind him.

**Mr. Deputy Speaker:** What is the point of order?

**Mr. Hearman:** This does not appear to me to have anything to do with the censure motion before the House. This is something that happened years ago.

**Mr. Deputy Speaker:** I rule that the member for Fremantle is in order seeing that the motion deals with the alleged misuse of public funds by the Government. He is quite in order in referring to other alleged misuses.

#### *Debate Resumed.*

**Hon. J. B. SLEEMAN:** Thank you, Sir. Of course, the member for Blackwood did not like it. He thought this was forgotten. He sat behind the Leader of the Opposition when he was then Treasurer and I was raising my protest about the £34,000. This amount of £450, which has been paid to a poor policeman who got into trouble, is a mere bagatelle. Members opposite gave away £34,000 to their political friends, the industrial users of cement.

Did I not have to go down to His Excellency and appeal to him to make the Treasurer do something. What did he say? He suggested that I report the matter to Parliament. But the present Leader of the Opposition was then sitting over here with a majority behind him, so what was the use of His Excellency saying that? The following year when I brought it up —

**Mr. Court:** You got your photo in the paper.

**Hon. D. Brand:** Was it taken at Parliament House?

**Hon. J. B. SLEEMAN:** —the Leader of the Opposition told the House that the Auditor General said it was no use pursuing the matter any further. The Auditor General did not say any such thing. He said there was still nothing done about the £34,000. Not only that, but when the Leader of the Opposition went out of office he had not fixed up the £34,000. Sir Ross McLarty said it was only a matter of book-keeping, but this Government fixed it up when it came into power, and that is to its credit. It brought down an item for £34,000 which had not been fixed up for two years previously by the McLarty Government.

Now our friend from Blackwood gets up and says that the Government is not consistent. He wants to be a bit more consistent himself. He sat behind his leader when the £34,000 was mentioned, but he did not raise a finger. As soon as the then Opposition came over here, it had the job of fixing up this matter and bringing down something to validate it. I think this is the most hypocritical outburst I have heard since I have been in the House. If I had been the Leader of the Opposition, I would have given it to one of the new members.

**Mr. Roberts:** To me?

**Hon. J. B. SLEEMAN:** Yes, because the hon. member was not here when the events I am talking about took place, and I would not blame him for anything that happened then. Sir Ross has moved this motion, and then for the member for Blackwood to get up and support him is just too ridiculous. It makes me sick. I simply wanted to get up and tell them what I thought of them regarding the money that was misspent when they were in office, and yet they come along here and kick up a devil of a row over a sum of £500! I was prepared to sit quiet and let the Leader of the Opposition state his case on the one hand and the Premier state his on the other. If a vote were taken on the evidence written out and passed around, I think it would be overwhelmingly in favour of the Premier. But, of course, the member for Blackwood had to get up and put in his spoke, and I thought I would have a word to say, too.

**HON. D. BRAND** (Greenough) [9.18]: At the risk of furthering the sickness of the member for Fremantle, I would just like to add a word or two. I think we are



justified in censuring the Government and in taking our case from the point of the High Court's decision. I feel that, no matter how public opinion has been whipped up, the fact is that all the controversy regarding this business of the decision of the Government to pay £450, has arisen since the court decided that the constable was guilty and awarded damages and costs against him amounting to something like £900. I imagine that the Government paid the £450 as being half of that amount.

A lot has been said tonight about the newspapers building up and creating in the minds of the public something that was bigger than the actual issue. But let me say to you, Sir, and to members of the House that the deputation from the Australian Labour Party, which is one of the big political parties in this State—

Mr. Evans: The biggest political party.

Hon. D. BRAND: All right, little boy, sit down!

The Minister for Education: Our hero!

Hon. D. BRAND: As a matter of fact, the member for Fremantle should know something about it. The A.L.P. decided to ask the Minister for Police what it was all about and that the deputation should be led by none other than the Federal president of the Australian Labour Party. I imagine, allowing for the extravagances of the Press in regard to these matters, that that alone was ample evidence that something important was going on and that an explanation should be given by the Government. We have been accused of delaying this matter. The only reason we delayed moving this motion in Parliament was in the hope that some explanation more than was given by the Minister for Police would be forthcoming. The Premier said that something more was given to the "Sunday Times". But every Minister has experienced that position. We never have our full statements published; they are cut according to the whims and wishes of whoever is doing the editing and printing.

Apart from the statement by the Minister for Police, nothing more was said and because the A.L.P. took such an active interest in the case, there was growing confusion in the minds of the public. Indeed, I should imagine that the police themselves were becoming confused and we believed that the action of the Government in paying £450 to Constable Hardy was deserving of censure and that the matter should be debated in this House. The Premier this evening based his explanation on the argument that Constable Hardy had a very fine war record. I was pleased to hear that. But I wonder what would happen to a constable who, under the same circumstances, did not have a war record. Would the Government have paid the £450 then?

The Minister for Transport: Oh!

Hon. D. BRAND: The Minister for Transport need not moan, or groan. The fact is that these are the queries which have been exercising the minds of the public and which have led to ultimate confusion all round. I do not intend to speak for very long—

Members: Hear, hear!

Hon. D. BRAND: I wish I could say the same of the Minister for Transport. The Opposition was forced, in view of the public opinion, and conversations in the city and in every country town, to seek some explanation about the whole business. If it was a clear-cut case, and if the Government had nothing to hide, I would have thought that the leader of the Government would have made a statement in regard to the position. I am sure that he would have been given the necessary space. The Press would have been glad to give it if he had made a forthright statement in regard to the case, and then the whole business would have died down.

When we raised this issue on Thursday last, the Premier saw fit to contest our right to have the matter debated on that day and, consequently, the whole question received further publicity. It is the duty of Her Majesty's Opposition to query points such as this and the people opposite, if they were in opposition, would have grilled us—if I can use the term—to a frazzle—

Mr. May: What nonsense!

Hon. D. BRAND: —if this situation had arisen and we had been the Government. We believe that we are justified in asking for an explanation of the Government's action.

Mr. Bovell: Hear, hear!

Hon. D. BRAND: The Government rejected the acting commissioner's decision not to recommend that funds be paid to the Police Union to meet the damages involved. The Government halved the punishment, as it were, meted out to the constable by the High Court because the Government met part of his expenses, and so far no reasonable or satisfactory explanation has been given by the Government.

Mr. May: In your opinion.

Hon. D. BRAND: In my opinion if the hon. member likes, but the fact remains that no satisfactory explanation has yet been made.

Mr. May: They should have paid the lot.

Hon. D. BRAND: Nor has the Government's action been justified. Therefore, I support this censure motion. I support it because I feel that this, perhaps, is something small but which has been enlarged. It has now become a great public issue and therefore demands the attention of the Premier. It demands an answer

from the Minister for Police, and I know that he has been very embarrassed over the whole business. He is a new Minister but, to give him due credit, when the deputation from the union was received in the first place, he said that he would take the matter to Cabinet, and rightly so. He did that and recommended that a sum of £370 should be paid; but Cabinet decided to go beyond that and pay £450. The argument put up by the Premier tonight was a very poor one and certainly did not answer the queries which have been publicised from time to time.

**THE MINISTER FOR POLICE (Hon. J. J. Brady—Guildford-Midland) [9.26]:** As Minister for Police I feel I should try to give the House a little of the history of this particular case and I am sure that when members hear the whole of the facts, as I see them, they will be satisfied that the Government did the right thing in that it has certain rights as the executive body and that it exercised those rights with due regard to the best interests of the State. That is the Government's main concern.

I would remind members that this matter between Mr. Trobridge and Constable Hardy took place over two years ago and has dragged on through the Police Court, the Supreme Court and ultimately went to the High Court. Now it has reached the supreme court of the land so far as this State is concerned—Parliament. Tonight I intend to go into details for the benefit of the public, more than for the benefit of members of Parliament, so that those who are listening would know all the details associated with the case both from the point of view of Constable Hardy, the officer concerned, and Mr. Trobridge.

But I think the Premier in his speech touched on the kernel of the subject by saying that the whole argument hinges on whether, on the night in question, the 24th July, 1954, Constable Hardy acted correctly when he asked Mr. Trobridge for his name and address, and which he insisted on getting verbally rather than by way of a printed card. That was in accordance with his instructions received in training at the police school and insisted upon by the Commissioner of Police.

As the Premier has dealt with certain aspects of the case I do not intend to refer to them again, but I want to try to put Constable Hardy's position to members and to put the Police Force angle too, as it was represented to me as Minister. But I also want to deal with aspects that I think are important to the general public and to tell them that they are not getting the full facts as this case has not been represented to them in the correct light. As I was saying, Hardy, as a constable was trained along certain lines. In the good old days when a man became a policeman he was told that he was a policeman and that was that; from then on, he was on

his own two feet as regards what action he might take as a policeman. But those days have gone by the board.

Today, men are trained in a most scientific way to act as policemen. During his training Constable Hardy received certain instructions and guiding principles to act upon. On this occasion, on the 24th July, he tried to put the results of his training into effect. Apart from his training, the question of this man's assignment has to be considered. Because of his conscientiousness as a policeman, he was assigned to a very difficult and tough proposition. It has been mentioned to me that, on one occasion, he was sent as a policeman to a centre which had not had a policeman previously, and he was successful in making order out of disorder, which had not been the case for some years.

Although he got himself into discredit for carrying out his duties assiduously, he certainly cleaned up that quarter. Then again, on account of his reputation for conscientiousness, he was detailed to endeavour to prevent the cruising of taxis, which was fairly prevalent at the time. Taxi-drivers' associations had complained about this offence by various taxi-drivers. The Tramway Department had complained about taxis cruising in the city and the Minister for Transport, who was also the Minister for Police at that time, had asked for some special action to be taken to prevent this offence being committed.

Constable Hardy, with his assistant, was singled out to try to curtail breaches of this traffic regulation. He was given an extremely tough job, but he set about doing it in a conscientious way. Also, there is Hardy's position in regard to the hearing of the Supreme Court action to be considered. From the deputation representing the Police Union which waited upon me as Minister for Police, I have been led to believe that Hardy did not know, until just before the commencement of the case, that he was standing on his own.

Previously, the name of the Commissioner of Police had been given as a party to the case, but in this hearing the commissioner's name had been removed and Hardy was left to defend the action on his own. I am told that he asked for legal representation and in reply he was informed that his case would be handled by the Crown Law Department. Therefore, as someone who is not well versed with the correct legal procedure, I would say that there was a doubt in my mind as to whether the correct legal procedure was followed in regard to this case. I understand that a man in a civil action is entitled to a certain period of time to consider how he shall defend himself. However, in this case some obstacles appear to have been encountered, and Constable Hardy was represented by the Crown Law Department.

Mr. Court: Was he not represented by the Crown Prosecutor himself?

The MINISTER FOR POLICE: He was represented by the Crown Law Department despite the fact that he expressed the wish to obtain his own legal representation. What happened to Hardy? Subsequent to the case being dealt with he was admonished by the Commissioner of Police for certain action he took on this particular night and, as a result, his transfer to another branch of the department for which he had applied, was held up for some time.

There is another aspect in regard to this case. I think that the average policeman is of the opinion that, as a member of the Police Force, he is protected under the Masters and Servants Act but, in recent weeks, following upon this case, there seems to be some doubt in policemen's minds as to whether that is the position now. If there is that doubt that a policeman is not covered by the Masters and Servants Act and a policeman is not informed that he stands on his own two feet, that he is responsible for his actions and that he is not delegated by the Commissioner of Police, then I think the contract obtaining between a policeman and the department is an unconscionable contract. It is unjust and unfair.

Mr. Ross Hutchinson: The same thing applies to teachers in the Education Department.

The MINISTER FOR POLICE: I am trying to deal with this matter as the Minister and to the House I am trying to put both sides of the case.

Mr. Court: Was not the Commissioner of Police struck off the action on the petition of the Crown Law Department itself?

The MINISTER FOR POLICE: I do not know. I am trying only to put the case of Constable Hardy as he saw it and as it was submitted to me by representatives of the Police Union. The point was made here tonight that the Government acted on the request of the Police Union.

Some weeks before this matter was referred to me, I attended a Police Union conference, and I told the members of that conference that, as Minister for Police, I did not want to encourage individual policemen to come to me with complaints to try to influence me outside their union. I felt that I should advise them along those lines because they had a recognised union through which they could present their case to me. That is exactly what they did, and I give them full marks for that. I repeat that I do not think it advisable for me to encourage an individual policeman to try to approach me, because of some personal acquaintance he may have had with me, but his representations should be made through the recognised channel, which is the Police Union.

In regard to the position of the Police Force with respect to this matter, one member said that the force was greatly concerned because of the judgment given. Of course it was. The member for Blackwood tried to make out that it was concerned because it is now held that the production of a printed card is sufficient when one is asked for his name and address. The Police Force, which is about 1,000 strong, said that it was concerned about the position of a policeman as a result of the decision given in this case.

It was made quite plain to me that its members considered that a policeman was protected under the Masters and Servants Act. They also made it plain by implication that if that fact were not recognised, the Police Union would probably have to take the matter further. I have yet to find out what exactly are the powers of a policeman as an individual and what rights are delegated to him. During the whole of his training, I think a policeman is more or less given to understand that he is acting on behalf of the Commissioner of Police and, in so doing, is acting up to the hilt of his powers. It is always recognised that a policeman's life is not a happy one and when one sees the rules and regulations and the instructions that are issued to him one can easily understand a policeman's difficulties.

In regard to this particular incident, the police were precluded from writing to the Press. Neither Hardy nor his assistant was entitled to go to the Press to present his side of the case because of the conditions governing his employment with the Police Force. In all the books that one picks up in the Police Force, one finds certain things laid down that a policeman can or cannot do. Therefore, the members of the force are bound hand and foot by the provisions of the Act and the regulations prescribed under it. Because of certain features in regard to this case I think I should read, for the information of members, from the Government regulations and instructions issued to the Police Force. On page 13 it says—

A private person acts at his own peril in arresting anyone for a crime.

I want members of the House to realise that a private person acts at his own peril in arresting anyone for a crime. Part "C" of the next section says—

In arresting without warrant a constable, if not already known, should declare who he is and his authority for acting.

Constable Hardy did exactly that. It goes on to say that he should also state the cause of the arrest in a clear and distinct manner. Constable Hardy also did that. It continues—

To complete the arrest it is necessary for the constable to actually touch or restrain the offender.

Hardy also did that.

I feel I should refer to those facts because they have been 'played' up in the paper in quite a different light, in a different aspect and with a different significance. So it is well that the public, and the House should know what a policeman's obligations are in these cases. The instruction continues—

Every exertion should be made to effect the arrest, but it should be managed quietly so that it may attract as little attention as possible and no unnecessary violence is to be used.

Nobody has said that Constable Hardy used any unnecessary violence. There is a further instruction to the effect that—

Members of the Police Force must act gently.

In italics it has the following instruction:—

Preserve their temper to the utmost.

Before I leave the regulations and instructions, I would like to revert to the section to which I previously referred and draw attention to the fact that paragraph (b) says, "A private person acts at his own peril." In the case I quoted it did not say that a policeman acts at his own peril. I take it, therefore, that the implication is that he is protected by the department or by the Government. There is a reference as to how a policeman and the department stand in relation to warrants. It is only partly apt in this case because it deals with warrants. The section is on page 152 of Circular Orders and General Instructions and is as follows:—

It must be realised that errors of this nature are likely to bring the department into disrepute and to render it liable to claims for wrongful arrest with the result that the department would be forced to pay compensation.

A policeman reading that among the other 320 circular orders and regulations, could easily get the impression that if his actions amount to a misdemeanour, he is protected by the department. Incidentally, a policeman has 155 pages of these circular orders and general instructions to wade through and those pages contain 320 circular orders and regulations.

The Premier: It is worse than being in Parliament.

The MINISTER FOR POLICE: In addition to that, he has the Government and Police Force regulations which comprise another 109 pages with not less than 720 regulations and instructions, which he is supposed to know and be able to act upon. Is it any wonder that a policeman's lot is not a happy one? I mention this to the House to show that a policeman has more to do than simply walk around and argue the point with a man who will not

verbally give his name and address as he is supposed to do. The Government of Western Australia is out to protect policemen where they are doing their duty. The Government is represented by members on this side of the House at the moment.

Part H of the Second Schedule of the Interpretation Act, under which I understand action in this case was taken against Constable Hardy, reads as follows:—

No action shall lie against any justice of the peace, officer of the police, policeman, constable, peace officer, or any other person in the employ of the Government authorised to carry the provisions of this Act, or any of them, into effect, or any person acting for, or under such persons . . .

That last part is material because the Commissioner of Police went into the witness box and said he considered that Constable Hardy had acted correctly. Part H goes on to say—

or any of them, on account of any act, matter or thing done, or to be done, or commanded by them, or any of them, in carrying the provisions of this Act into effect against any parties offending or suspected of offending against the same, unless there is direct proof of corruption or malice, and unless such action is commenced within three months after the cause of action or of complaint shall have arisen; and if any such person shall be sued for any act, matter, or thing which he shall have so done, or shall so do, in carrying the provisions of this Act into effect, he may plead the general issue and give the special matter in evidence; and in case of judgment after verdict, or by a Judge sitting as a jury, or on demurrer being given for the defendant, or of the plaintiff discontinuing, or becoming non suit in any such action, the defendant shall be entitled to and have treble costs.

There was a case that was almost identical with this one which took place in England and which was quoted in the High Court. Unfortunately, I have not got the details of that case here with me tonight. That case, however, was found in favour of the defending policeman who was a sergeant and who, it was alleged, illegally arrested a drunken taxi-driver. As I have said, that case resulted in favour of the Police Department. The fact that the provision to which I have referred relative to the Interpretation Act is contained in the Standing Orders of the Legislative Assembly, would convey the impression to most members that the Government does try to protect its Police Force.

Mr. Ross Hutchinson: In that case, the judges were wrong.

**The MINISTER FOR POLICE:** The member for Cottesloe should be patient and wait. He will see that I will not in any way reflect on the High Court judgment. As a Minister of the Crown, I feel that I should not specifically refer to that particular judgment and I do not propose to do so even though the member for Cottesloe might wish me to. I am putting the case as I feel the public should have got it through the local Press. None of these things were quoted to the public to help them obtain a more balanced view of the matter. Only one angle was played up and that was done with a view to increasing the circulation of the publication and with an eye to £ s. d.

**Mr. Court:** Why didn't you defend the policeman and publish it?

**The MINISTER FOR POLICE:** I gave the "Sunday Times" three pages, setting out my viewpoint, and only one-third of it was published.

**Mr. Court:** Did you give it to the A.B.C. and to "The West Australian"?

**The MINISTER FOR POLICE:** I gave "The West Australian" some statements here at a moment's notice one night. While I was sitting in this Chamber, I received a note from the Press gallery asking me whether I would give a statement in regard to payments. Thinking it would help the particular pressman concerned, I gave him that statement, not for one moment imagining it would come out the following morning as "the Minister's reply" to their leading article. That is how that paper dealt with it. I had not seen the leading article when I prepared my notes for the pressman concerned.

**The Premier:** It's a tough game, Charlie!

**The MINISTER FOR POLICE:** In this case a member of the Police Force was told that on that day a writ was to be issued for recovery of damages and costs, which meant that within a very short time this man would be bankrupt and because of his bankruptcy he would no longer be able to be a member of the Police Force. I read the file through in the limited time at my disposal before putting the matter to Cabinet. I put up what I considered was a reasonable proposition. In other words, the case was represented to me on the 7th June, and on the 12th June, Cabinet made a decision. It is strange that this case over which a censure motion has been moved by the Opposition, arose after the decision had been made for nearly three months.

In regard to the penalty involved, it would appear that members opposite believe in four penalties resulting from about five minutes of misdemeanour on the part of a constable on duty. In addition, it would seem that the people who are prejudiced against Constable Hardy, want to

see him fined and involved in costs and damages to the extent of £950 odd, and also desire that he should be subsequently involved in bankruptcy as a second penalty. Further, they want to see him lose his employment, which is the third penalty. After his bankruptcy, because of the fact that approximately 5,000 to 6,000 people are unemployed in this State, it is possible he will remain unemployed for a long time and thus suffer a fourth penalty.

**Hon. Sir Ross McLarty:** Who wants that to be done?

**The MINISTER FOR POLICE:** It would seem that the people who want the blood of Constable Hardy, that of the Minister and members of the Cabinet, desire to see no less than four penalties imposed. That is their estimation of British justice and fair play. I shall have something to say about that aspect later on.

Let us turn to the newspapers, and this is the most shocking part of the whole case. It has been mentioned that a public inquiry should be held. I firmly believe there should be a public inquiry into certain aspects of this case, but not into the aspect of whether Constable Hardy acted correctly as a policeman, but into the aspect as to whether or not the daily Press is acting correctly as a so-called medium for distributing honest news to the general public.

That is where the inquiry should start, because the newspaper monopoly in this State, with the combination of the "Daily News", "The West Australian", the "Week-end Mail" and several other newspapers, has a tie-up with the broadcasting stations. Because of this, members of their staff can obtain information which is not generally available to the public and it is published in order that they may make a profit. I understand that last year this company made a profit in the vicinity of £271,000. I am not too sure of the exact figure and I may be £1,000 or £2,000 out. I have tried to find out the exact amount from the financial columns.

**Mr. Court:** Has that got much to do with this motion?

**The MINISTER FOR POLICE:** That is not fair. That is where the inquiry should start.

**Hon. Sir Ross McLarty:** Then move a separate motion.

**The MINISTER FOR POLICE:** Instead of inflaming the passions of the public against a recognised department of law and order in this State, an inquiry should be started on that aspect in the interests of the public.

**Mr. Court:** The newspapers have not inflamed the public.

**The MINISTER FOR POLICE:** That is exactly what they have done. They are trying to vilify the Government on this

particular matter, a Government which is trying to do the honest thing for the State.

Let me go on with this aspect regarding the part played by the Press. When this case first went before the court, the newspapers did not give it as much as one line. I looked up the original case in August, 1954, and I nearly got eye-strain trying to find reference in "The West Australian" to that case. There was not one line published during the whole week. But after a few questions had been asked in this House quite a number of people started to write to the newspapers and the whole thing was broken wide open.

We had headlines starting from August along these lines—"State Aid to Constable Hardy Is Condemned," "Constable Had a Legal Burden," "The Constable Hardy Case". Those were published on the 30th August. Similar headlines appeared on the 17th and 22nd August. On the 30th August the "Daily News" had this headline, "Hardy Grant Opposed". On the 30th August "The West Australian" stated: "Minister Has His Say in the Hardy Case". On the 31st August, all on the same matter, the "Daily News" had this headline: "Constable Hardy and the Cabinet", with a two-column article in regard to that matter.

Mr. Bovell: You should welcome publicity on such matters.

The MINISTER FOR POLICE: Then there is reference to abuse of public funds, and on the 30th August in the "Daily News" there is a photograph of Constable Hardy on the front page. Under no circumstances did Constable Hardy desire to have his photograph taken. On numerous occasions he was asked to make himself available for a photograph, but he refused. The Press went to the extent of building a small shelter some distance away and, using a telescopic lens on a camera, took a photograph of Constable Hardy at a distance. They published this in the newspapers.

I have heard it said that was taken from 60 yards away. I wonder if the Press will tell the public about this or come out with headlines to say that the Minister for Police exposed their ways of getting information and photographs. That is most interesting. But did the Press stop at the "Daily News" edition? No, they followed up by references to Constable Hardy in other editions of the newspapers. Is that playing the game? Is that pro bono publico, as sometimes appears in the newspapers?

I would ask the thinking public and members of this House to realise in which direction the Press in this State is going. Responsible sections of the community are concerned with the way in which the leading newspapers are handling the news. As late as this week I heard that deputations to the management of these newspapers

are contemplated, with a view to seeing where the daily newspapers are leading us with their sensation-seeking headlines.

Mr. Hearman: Does that justify the Government's action at all?

The MINISTER FOR POLICE: There is another issue of the newspaper of the 6th September setting out on a full page the decision of the High Court.

Mr. Bovell: Read it out. The House will be interested.

The MINISTER FOR POLICE: I leave the position at that.

Hon. Sir Ross McLarty: Do you have any objection to the High Court decision?

Mr. Bovell: That is the opinion of the High Court judges.

The MINISTER FOR POLICE: There are other headlines appearing in the "Sunday Times" relating to the statement I gave it. On the 28th August there was another article on Constable Hardy and unemployment. There was a further headline: "Another Important Question." There have been reams of it, right until today. Let us look at the shocking thing that has been published today about a man who is on holidays and trying to get away from this nightmare.

The "Daily News" published another article today in which Constable Hardy is alleged to have made a remark to somebody in a local bar regarding a summons. This is quite a usual practice for a policeman. It is normal for a policeman to say, "If it inconveniences you going to the court, plead guilty and the plea is accepted." That is done every day of the week all over Australia. Yet the newspapers have played it up! In the "Weekend Mail" there was another article in connection with that matter.

None of the newspapers had anything to say in favour of Constable Hardy; not one of them saw fit to give his magnificent war record, one that would stand up in any part of Australia. The returned soldiers on the opposite side of the House did not go to the R.S.L. or anybody else saying that they should give some protection to this person, a man who had fought for British justice. This Government has tried to give him British justice. But for this motion and the aspects of the case which have been considered here, the public of Western Australia would feel that British justice had been done and the case would die a natural death, which it is entitled to do.

Mr. Court: Are you going to tell us about the other people you think were implicated?

The MINISTER FOR POLICE: That is the way the Press handles these things. If there is any inquiry required, that inquiry should be regarding the way the Press is handling the case.

The Premier: One must admit the profiteering Bill knocked the Hardy case out of the Press on Monday morning.

The MINISTER FOR POLICE: The Hardy case lost its interest for "The West Australian."

Mr. Bovell: I doubt if it will be the case tomorrow morning.

The MINISTER FOR POLICE: These papers claim to be above suspicion and I am not sure whether they could not be accused of borrowing their news. As a matter of fact, another journal outside the newspapers got this news over first, and the papers picked it up. One newspaper representative almost went down on his hands and knees for me not to divulge the news to any other paper but is own. The first paper to publish the story was the "Police Gazette," which published the whole of the information and subsequently the papers were laid on the Table of the House, all members having an opportunity to see the full details on the file. The Government did not try to hide the matter. The Government made it public in the House and the union through the Press.

Mr. Ackland: The Minister asked for British justice. Does one not get it in the High Court of Australia?

The MINISTER FOR POLICE: I believe so, and have every faith in the High Court, and make the point that I am in no way criticising the High Court judgment. For the information of the member for Moore, I am trying to get over to the public the information and details it should have. I consider the paper could have published Hardy's record as a soldier. But they were not interested in British justice. They were only interested in £ s. d. and profit. The first news of this case was not even given a couple of lines in "The West Australian," but as soon as it became public news it cashed in on it.

Mr. Ross Hutchinson: Misuse of public money!

The MINISTER FOR POLICE: I do not deny the fact that I am a Labour Minister. I am proud to be a Labour Minister in a Labour Government. I believe the Liberal Party has a philosophy of not helping the underdog and the down-and-out.

Hon. Sir Ross McLarty: What has that to do with the motion?

The MINISTER FOR POLICE: It is traditional for the Liberal Party to act in cases like this. They have never had anything to say in favour of the working man and the underdog.

Hon. Sir Ross McLarty: Just drive! Fancy talking such rubbish!

The MINISTER FOR POLICE: I am speaking as a Labour Minister.

Hon. Sir Ross McLarty: The Minister has picked the police to pieces in his day.

Hon. D. Brand: Tell me what the A.L.P. came into this for.

Mr. DEPUTY SPEAKER: Order!

The MINISTER FOR POLICE: The Liberal Party were not interested in Hardy. They wanted to take political advantage in this case.

Hon. Sir Ross McLarty: My Government did more for the police than the present Government has done.

The MINISTER FOR POLICE: Instead of helping these servants of the Crown, the Opposition takes the opposite view.

Hon. Sir Ross McLarty: It is the Government we are censuring.

Mr. DEPUTY SPEAKER: I must ask certain members who are interjecting continuously to desist or I will be forced to take action under Standing Orders. When I call for "Order," I want it.

The MINISTER FOR POLICE: I think I can conclude by showing the House how much sympathy the Liberal Party has for the working man and the down-and-out by referring to its suppression Bill that amended the Industrial Arbitration Act just prior to its going out of office.

Hon. Sir Ross McLarty: What has that got to do with the motion?

#### *Point of Order.*

Mr. Ross Hutchinson: On a point of order, surely, Mr. Deputy Speaker, the Minister cannot be allowed to continue in this way as his remarks have no bearing on the motion.

Mr. Deputy Speaker: I rule that the Minister is in order.

#### *Debate Resumed.*

The MINISTER FOR POLICE: It is unfortunate that the Liberal Party did not bring on this particular motion of censure before the papers were laid on the Table of the House about the 15th August last. Over a month has gone by since they first had the opportunity of reading this particular motion.

Mr. Evans: They squirm like snails.

Hon. D. Brand: You should know.

The Minister for Transport: He beat a chap named Brand.

Hon. D. Brand: He must have been very slow.

The MINISTER FOR POLICE: Section 50 of the Police Act sets out a policeman's duty in regard to an arrest. It reads as follows:—

Any officer or constable of the Police Force may demand from and require of any individual with whose person he shall be unacquainted his name and address, and may apprehend without warrant any such person who shall neglect or refuse to give his name and address or either of them when required so to do as aforesaid; and

every such person neglecting, or refusing, or who shall give a false name or address when applied to as aforesaid, shall upon conviction forfeit and pay any sum not exceeding five pounds, or at the discretion of the convicting Justice be committed to any gaol or lock-up, there to be kept to hard labour for any term not exceeding three calendar months.

So the whole thing boils down to this: If Mr. Trobridge on the occasion of his being interrogated by the constable had verbally given his name and address, all this trouble would have blown over. I want to leave the right impression with the House in regard to this case by saying that Constable Hardy, in the execution of his duty in carrying out his inspections to try to diminish the cruising of taxis, had been successful. He interviewed 25 to 30 drivers with regard to cruising, and, as far as I know, not one incident took place up to the 24th with any of the taxi-drivers. That would seem to have some very great significance in regard to this incident on the 24th.

Constable Hardy felt that this man Trobridge was breaching the traffic regulations by cruising in William-st. about 9.20 that night. He tried to get his name and address in the normal way; and when the man refused to give them, he endeavoured to arrest him. He resisted arrest several times, but subsequently agreed to go in an ordinary car with a plain-clothes policeman—not a policeman in uniform standing over him with a baton and with a utility car for him to be bundled in, but an ordinary car and a policeman in plain clothes.

Hon. Sir Ross McLarty: That is not what came out in evidence.

THE MINISTER FOR POLICE: If that had been brought out in the public Press, it would have helped to show the case was not as bad as it seemed.

Hon. Sir Ross McLarty: Why was it not brought out?

THE MINISTER FOR POLICE: I do not know. The Leader of the Opposition had better ask the papers. The average person in the street feels that on this occasion a uniformed policeman battered this man around, marched him up and down William-st., and pushed him into a utility.

Mr. Hearman: Rubbish!

THE MINISTER FOR POLICE: That is the view of the average man in the street. Between 25 and 30 other taxi-drivers were intercepted by Hardy but did not react in that way. I conclude by saying that I understand it to be the function of the Ministry when confronted by a case of this description—there is no specific provision for it in the Act—to deal with it on its own initiative; and that is what was done in this case.

MR. ROSS HUTCHINSON (Cottesloe) [10.12]: This is a very strange debate when heard from this side of the House. The Government is apparently fighting its own judiciary. The State Parliament, together with the Federal Parliament, makes the laws of the land. The Police Force acts as guardian of the law, and the judiciary is appointed to uphold the law. That is the proper background for this debate. But instead of that having been the background, the Government speakers have endeavoured to put facts on the personal plane. They have attempted, by their vituperative remarks regarding the Press notices, to draw a red herring across the real purpose of the censure motion.

I think I am warranted at this stage in reading the motion, because rarely did the Premier—and more rarely still the Minister—make any reference to the terms of the motion, which reads as follows:—

That the Government is deserving of censure because of its misuse of public funds in paying £450 of the damages and costs awarded by the High Court against Police Constable Hardy in the action brought by A. L. Trobridge.

That is the motion, and it is something that neither the Premier nor the Minister gave very much attention to. I admit that this is one of those debates that, unfortunately, do bring undesirable personal traits into the glare of public opinion.

The Minister for Transport: That has been going on for a few weeks. One chap has been copping the lot.

MR. ROSS HUTCHINSON: I thought at this stage the Minister should have been dictating to the editor of "The West Australian" what should be on the front page tomorrow.

The Minister for Transport: You will get prominence now; you are right.

Hon. Sir Ross McLarty: The Minister got prominence. He cannot complain.

MR. ROSS HUTCHINSON: I was trying to point out that this debate had brought to light some personal incidents and personal traits of character which do not make very nice hearing and which are most unfortunate for the personalities involved. But I submit that the debate is of prime importance because of the principles involved, and that is something which has not been spoken about by the Government speakers.

The Minister for Transport: How do you spell that word "principles"?

The Minister for Lands: That is a fair question; answer it!

MR. ROSS HUTCHINSON: The Minister has none of either. The point that occurs to me is that, as I mentioned earlier, the Police Force are guardians of the law and must abide by the law. I am certain



that, when trained, policemen are told that they are guardians of the law and must perforce abide by it, and by doing so they uphold it. It is part and parcel of their job. That is why the acting commissioner, when approached regarding recompensing the union for its payment of the Hardy damages, said in effect, "No. I cannot do that because of how the judiciary has found."

Whether or not the commissioner, in evidence, before any finding was made, said that the constable was going about his duties in a correct manner makes no difference at the present point. The fact is that damages were awarded. With regard to the police being the guardians of the law and having to abide by it—that is understood; and not one would deny it. One cannot have one's cake and eat it. It is a strange set-up to hear the Premier and the Minister have a retrial of the persons in this case. This side does not want a retrial at all, but wants to point out how the Government has misused public funds in the terms of the motion I read out.

[Mr. Sewell took the Chair.]

Mr. Potter: We are still waiting to hear.

Mr. ROSS HUTCHINSON: One understands, after hearing the Premier and the Minister, that they have found differently from the properly constituted court of law—the highest in this land. It has been evident that neither the Premier nor the Minister bases any reliance on the opinion of the judges with regard to this matter. They do not uphold their judiciary at all. What the Premier has said, and the greater part of what the Minister said, has been fully considered by the judges who gave their findings. All the circumstances involved with regard to the handling of the card having the name of the driver on it were explained. But in defence of itself on this motion, the Government tries to bring out the personal issues involved. Instead of speaking to the motion itself, the Premier spoke on the personal plane and retried Hardy and found him innocent in defiance of how the law found him.

That, I submit, is holding the judges' findings up to public contempt. Then the Premier went on to retry Trobridge—or to try Trobridge—and he found him guilty. He said, in effect, that the whole of the responsibility for this incident should be placed on the shoulders of Trobridge. I submit that neither the first nor the second point I make has any bearing on the motion, though it is relevant in the sense that it triggered off the action.

To add to the queer nature of the debate, the Premier read a portion of a leading article which dealt with the anti-profiteering Bill, and in doing so he adopted another line of trying to build a wall between ourselves and our Country

Party friends when, at the present time, there is no necessity to do so. His remarks were completely extraneous except for the point he made regarding what he termed the Press build-up of certain matters. He felt, probably, that what he said was shrewdly calculated to upset any friendly relations that existed or might exist between the Leader of the Opposition and the Leader of the Country Party.

The Premier did give two reasons—there may have been a third which I did not properly catch—for the payment. He was the one speaker who did try to give reasons for the payment of the £450. His first reason, he said, was because the Government felt itself committed to Hardy's case. I cannot for the life of me see that this is any real reason why, once the highest court in the land has found that a man has incurred damages, the taxpayers' money should be used to pay half those damages. The fact that the Government feels itself committed to this man's interests, is no reason why it should go that far. There is no real reason in that first point advanced by the Premier.

The second reason suggested by the Premier is that the Commissioner of Police, in evidence, said that Constable Hardy had acted correctly in the execution of his duties. I can understand the Government assisting Constable Hardy in such circumstances up to the limit until the finding was made. I would say that the Government was perfectly justified in trying to assist him up to that point, but thereafter the matter should have been out of the Government's hands because the Government's own judiciary—the judiciary appointed to uphold the laws that the Government makes—awarded damages. The Government, however, then saw fit to use the taxpayers' money to halve those damages.

This, of course, brings to mind the fact—as I mentioned last week—that the Government's misuse of the taxpayers' money is nothing new this year. This is the third occasion on which the Government has misused the taxpayer's money. The first occasion occurred early in the year when electoral officers were sent into the West Province and were paid overtime rates to place people on a non-compulsory roll.

The Minister for Education: You are a nice one to have taken a point of order on the Minister.

Mr. ACTING SPEAKER: I draw the attention of the hon. member to the fact that he is getting away from the motion.

Mr. ROSS HUTCHINSON: In answer to the Minister who has just interjected, I point out that I have a precedent for my remarks. The member for Fremantle spoke on this debate and brought up a matter in respect of which he said this Opposition, when in office, misused funds.

The Deputy Speaker at the time allowed him to continue. Have I then your permission, Sir, to continue with my allegation.

Mr. ACTING SPEAKER: You may deal with the motion.

Mr. ROSS HUTCHINSON: I say that the Government misused governmental funds early in the year because it spent quite a substantial amount of money in obtaining a political party advantage. Despite the fact that there was some public reaction to that, the Government spent the taxpayers' money a few months later in areas that were found, by virtue of the results of the ballot papers of those regions, to be predominantly Labour. These electoral officers were again placed in the field and paid overtime rates to put people on a non-compulsory roll.

Mr. Evans: It should be compulsory.

Mr. ROSS HUTCHINSON: That has no bearing on the matter.

#### *Point of Order.*

Mr. O'Brien: On a point of order, I draw attention to what the hon. member is saying. I do not know where he is. He is away out in some electorate, I think. We are discussing the motion.

Mr. Acting Speaker: I draw the hon. member's attention to the fact that that matter has already been on the notice paper and discussed. When he gets to his feet again, I would like him to discuss the motion before the House.

Mr. Ross Hutchinson: I am somewhat disturbed that you, Sir, have ruled in direct defiance of the Deputy Speaker who has just vacated the Chair. Yours is an honourable position, and I submit that what is good enough for one side of the House is good enough for the other.

Mr. Acting Speaker: I certainly gave the hon. member quite a bit of latitude in dealing with the matter he was discussing, but I would ask him now to deal with the matter before the House.

#### *Debate Resumed.*

Mr. ROSS HUTCHINSON: In deference to your position, Sir, I shall pursue the tenor of my remarks, but under protest. I feel sure that the member for Fremantle would agree with me in this regard. Some very interesting points will arise out of this matter. With the exception of the subject, about which you, Sir, will not allow me to speak, I have attempted to confine myself exactly to the terms of the motion. What the Government has done here sets a fine old precedent!

What could happen in the event of a teacher working for the Education Department, and through that department for the State, who in the course of his duties when attempting to maintain discipline in a class, allowed himself to be so overcome that he caused some minor injury to one

of his pupils? A departmental inquiry would be held and more than likely a civil action would be brought against him, and no doubt, in this hypothetical case, damages would be granted against the offending teacher. I take it that this Government would feel that, because the teacher was attempting to go about his duties which include such matters as imposing discipline on a class, maintaining order and doing his best to teach, it would be committed by this precedent to pay half the damages incurred by that teacher.

Mr. Evans: It is rare.

[*The Deputy Speaker resumed the Chair.*]

Mr. ROSS HUTCHINSON: I quite agree that those instances in the teaching profession are rare, just as instances such as the one that occurred recently in the Hardy-Trobridge case are, indeed, very rare. I suggest that the Police Force and the Education Department are to be congratulated because of that. In view of what has happened here, I am putting forward a hypothetical case of what could happen to a teacher, and, indeed, what has happened on rare occasions.

Mr. Potter: Every case must be dealt with on its merits.

Mr. ROSS HUTCHINSON: What will happen in the Police Force in the future if a similar thing occurs? Of course every case must be judged on the circumstances, as one of the Government back-benchers just said. All the circumstances involved must be taken into consideration. But in this instance all the circumstances involved were taken into consideration by the highest court in the land and a finding was given. That the Government has paid £450 to the Police Union to pay for some of the damages incurred is, in effect, a wrongful use of public funds; wrongful use of the taxpayers' money, and it is because of those reasons that I feel we must support this motion. Every thinking person, in his own heart, must support it.

MR. BOVELL (Vasse) [10.31]: I would not have participated in this debate—

The Minister for Transport: The member for gas!

Mr. BOVELL: —had it not been for the fact that the Minister for Police, in the course of his speech, referred to certain actions of the newspapers. I know that there has been some unfortunate publicity given to this case and I would not have objected had the Minister referred to some of the articles and headlines that have appeared in the daily Press from time to time. But I was perturbed when he specifically objected to the Press publishing the opinions of the High Court judges.

The Minister specifically dwelt on a particular issue of the "Daily News" dated the 1st September, 1956. I do not intend to read the whole article but sufficient of it to let members and the people generally know what, by implication and words, the

Minister for Police wants to do to the Press of this country. He wants to hamstring it and stop it from even publishing the opinions of High Court judges. The Minister made a feature of that aspect and I have some of the cuttings before me which appeared in that issue of the "Daily News".

The heading of the article is "You be the Judge of the Hardy-Trobridge Case". It then goes on with a sub-heading, "These are the Facts" and under that heading we find the following reported:—

Today we present hitherto unpublished matter on the Hardy-Trobridge case.

We do this so that Western Australians can judge for themselves the implications of Cabinet's decisions to assist Hardy pay the damages awarded against him.

This report comes from the judgments of the three High Court judges who heard Trobridge's appeal against a decision of Mr. Justice Virtue in the W.A. Supreme Court.

Briefly, the case history was this:

Constable Frederick John Hardy wrongfully arrested and humiliated taxi driver Arthur Lincoln Trobridge in Perth in July, 1954.

Trobridge's damages claim in W.A. Supreme Court was reluctantly rejected by Mr. Justice Virtue on interpretation of the law regarding proof of malice on Hardy's part.

Hardy had claimed that he thought Trobridge had not properly given his name and address when asked, and that he thought he had protection under the law (which demanded proof of malice in these circumstances).

Mr. O'Brien: Will you read the last line again?

Mr. BOVELL: The hon. member can read it all in Hansard.

Mr. O'Brien: I have it all here.

Mr. BOVELL: The article goes on—

Trobridge appealed to the High Court of Australia which found in his favour.

Much of the judgments of the three High Court judges covered the law on proof of malice.

Here, we publish their comments on Hardy's actions.

The Minister for Justice: We have all read that half-a-dozen times.

Mr. BOVELL: These are Mr. Justice Kitto's remarks, published in the same issue—

When the evidence which Mr. Justice Virtue accepted is considered in detail it seems to me to point convincingly to a specific motive as accountable for Hardy's conduct.

We have the spectacle of a constable over-officious and boorish who in the presence of strangers impetuously accuses a taxi driver in terms of crude insult and offensiveness of the minor offence of cruising for hire.

Finding that he must abandon the charge because the passengers in the taxi will be ranged against him on the issue of fact, a sense of frustration and an affronted dignity lead him to look for a way of getting even with the innocent cause of his discomfiture.

He surlily demands the taxi driver's name and address.

And so it goes on with Mr. Justice Kitto's comments.

Now we come to Mr. Justice Taylor. I am sure that if the Press published wrongful statements by judges of the High Court it would be called upon to account for its actions. So we can take these statements as fact and, in the same article, Mr. Justice Taylor's comments are recorded—

In view of the fact that Hardy satisfied himself that Trobridge had not been cruising or plying for hire one may wonder why he demanded Trobridge's name and address but whether or not there was any reason for this the findings of the learned trial judge disclosed an abuse of authority which is about as gross as it is possible to imagine.

And, of course, there are a lot of other comments that he made.

Next we come to Mr. Justice Fullagar, and this is what he had to say—

The only possible inference from this case, as found by Mr. Justice Virtue, is that the acts of which Trobridge complains were done by Hardy not with the intention of carrying into effect the provisions of the Police Act but with the intention of punishing Trobridge for some fancied slight or affront or to gratify the instincts of a man who "knows no use for power except to show his might."

Those are the publications to which the Minister objected this evening. He made specific reference to the articles I have quoted from the "Daily News" of Saturday, the 1st September, 1956. If the Press is to be hamstrung—and I agree that some of the publicity given to this matter was somewhat unsavoury—and is not to be permitted to publish such opinions of learned judges of the High Court of Australia, we will be committed to a police State that does not exist even in the Kremlin. If the Press is to be hamstrung, as the Minister for Police said tonight he favoured—or at least he led us to believe

that he was in favour of it—nothing of which an all-powerful Government wanted to hide would be brought to light.

The Minister for Transport: Do you think the Press can be proud of this effort?

Mr. BOVELL: I raise strong objection to the Minister for Police, in his capacity as a Minister, objecting specifically to the publication of the opinions of learned judges of the High Court of Australia.

Mr. O'Brien: He upheld the judges of the High Court.

MR. PERKINS (Roe) [10.30]: I do not know either of the parties to this case by sight. I would not know them if I met them in the street. I think it is useless, however, for members on the Government side of the House to declare that this case is not of vital interest to members of the public. There does not seem to be any dispute that in this case a taxi-driver, who possibly was ill-advised in the way that he replied to the constable, was arrested for a comparatively trivial offence, was taken to the Central Police Station and was there treated in a way which I do not think any member of this House would condone.

The Minister for Education: Are you for or against the motion?

Mr. PERKINS: The Minister will know when I have finished.

The Minister for Education: I hope so.

Mr. PERKINS: I can quite imagine the protests that would be raised by any of the members sitting along the Treasury bench or even by the member for Fremantle if they were sitting on this side of the House and if another Government was responsible for the administration of the Police Force when this particular case occurred. It is useless for the Government to deny that the conscience of the public has been stirred over this particular case. The treatment that this man received is foreign to what we expect in a British democracy.

The Minister for Transport: Oh!

Mr. PERKINS: It is all very well for the Minister for Transport to shake his head, but surely he does not suggest that because some citizen, if he is approached by a member of the Police Force, does not perhaps supply his name and address in the way that he should, the policeman should lose his temper and act in a way that was entirely unnecessary.

The Minister for Transport: According to the publicity one would think he had murdered about a thousand people.

Mr. PERKINS: The point is that when something such as this happens and it goes through the courts and on to the High Court, it is fairly obvious that after the facts have been established and the most learned judges in the land have expressed their opinion, the public has the right to

think that those comments have some substance, and there is no doubt that several members in this House are thinking along the same lines.

It is useless for Government members to deny that those comments by the High Court judges are very serious indeed. I think that members of the Police Force will be the first to agree that it is most undesirable that those comments should be made about a member of the Western Australian Police Force without something being done about it. It seems unfortunate for Constable Hardy that he is the one who has to bear the brunt of this publicity. I have some sympathy for him because apparently he has a good war record and it is unfortunate for him. However, the fact remains that it has been said in the law courts that he acted in a way that was improper and the High Court of Australia considered that it warranted considerable damages being awarded against him.

Now we find that the State Government, on the facts available to it, has decided otherwise. I would have thought that the Premier and the Minister for Police would have followed a different line tonight. I do not think that they have made a very good showing at all in regard to this case. A great portion of their time has been taken up with a tirade against, or abuse of the Press. We have heard the Press abused before in this Chamber but I would have thought that when a motion of censure is moved by the Leader of the Opposition against the Government of the day, the Premier and his Ministers would have been more concerned to justify their actions on the circumstances of the case.

Obviously, whatever the Press has done—it may be right or it may be wrong—does not concern the merits of this case. What we are considering is: Should the Government have paid £450 which represented part of the cost of the considerable damages which the High Court of Australia awarded against this constable? I do not think that any one of us wants to be vindictive towards Constable Hardy. Possibly, from the debate which we have heard tonight in this Chamber, he is not a very suitable man to be in the Police Force and perhaps it would be better that he should be transferred to some other branch of the Civil Service.

Be that as it may, I do not think that is the real question that is before us tonight. It is not a question of which constable it is—members do not want to be vindictive against any individual—but there is a principle at stake and I think that the public, if this case had not been ventilated, might have been prone to ask: Is the Police Force above the law? If a police constable exceeds the proper use of his powers, if he takes action which humiliates some ordinary citizen of this country and the law courts decide in favour

of that citizen, is the Government of the day going to defend that member of the Police Force willy nilly?

That is a very important point and I feel that this debate has been necessary in order to vindicate the rights of the ordinary citizen. I hope that if there are to be other speakers from the Government side of the House, they will not follow the same lines of debate taken by previous speakers but will try to justify the action of this particular police constable. No matter whether some people break the law or not, I still do not condone the action of a member of the Police Force which is outside the bounds of decency and fair play that we have been accustomed to expect from members of the force not only in this State but also in other countries within the British Commonwealth of Nations.

That is a reputation that has been built up over the years and I was pleased to hear the Leader of the Opposition refer to it. It is a reputation which we, as members of this House, should be very jealous of indeed and it is a reputation which the members of the Police Force should be jealous of also. Therefore I consider that this motion of censure by the Leader of the Opposition is well justified and I hope that members of the Government will realise there is a vital principle at stake as well as the personalities associated with this particular case.

**MR. COURT (Nedlands) [10.49]:** I rise to support the motion by the Leader of the Opposition. It is not a motion that is really greatly concerned with the mere sum of £450. Neither is it a motion that is directly concerned with the persons of Hardy and Trobridge. It is, in fact, a motion directly aimed at the preservation of a vital principle—the upholding of the courts in this country, on the one hand, and the maintenance of the confidence of the public in the Police Force and the Civil Service of this country generally, on the other.

From the debate this evening one thing has become apparent and that is the fact that the issue at stake and the basis of all the publicity is the treatment that can be expected from the police by John Citizen, the ordinary man in the street, when he is arrested, be that arrest right or wrong. Not only the public, but, more important, even the police themselves, are most anxious that they retain the respect and confidence of the public. They have earned it over a long period of years by tolerance, patience and efficiency, and they are just as anxious to retain the confidence of the public as the public is to retain its confidence in the Police Force.

The Minister for Transport: Who has been casting doubts in the last few weeks?

**Mr. COURT:** I do not think it has been suggested that the force as a whole has been anything but efficient and tolerant. There has been a case singled out, and

this will be so from time to time, but I know of no attack on the Police Force by the Press of this State or any other, or by the court. The court was not attacking the actions of the Police Force. If I remember correctly it went out of its way to uphold the force, and even went so far as to say that the decision at which it arrived was in the interests of the force itself.

The Minister for Transport: But if there has been any doubt cast on the Police Force, the past few weeks have done it.

**Mr. COURT:** I do not think that is a fair comment by the Minister for Transport, but if any doubt has been cast on the Police Force that makes this motion all the more necessary. Surely the Government in paying half the fine imposed by the court as punishment or damages—whichever way one likes to look at it—is responsible for creating a grave doubt and suspicion in the public mind, because it would appear that through its action the Government has, in fact, condoned the offence! As far as the court's decision is concerned, I feel the Government, through its action, has flown in the face of that decision. There is no doubt about it. From what the Premier has said, the Government has set itself up as another court of its own, and has proceeded to try Trobridge and, in its opinion, has arrived at the view that he was to some extent culpable in his dealings with Hardy.

**Mr. May:** Tell us where the Government went wrong?

**Mr. COURT:** I feel the Government has flown in the face of the High Court decision.

**Mr. May:** You have not told us where the Government went wrong.

**Mr. COURT:** I have. The highest court in the country decided the issue. It does not matter which way the decision goes. Regarding court decisions, the hon. member knows as well as I do that there are always litigants who feel there has been a miscarriage of justice, and perhaps if we got behind the scenes of some of those cases we might find that there had been a miscarriage of justice. But the manner in which we operate in this country is that the decisions of the court are upheld and respected. Now if the Government of the day went against such a decision, there would be grave doubts in the minds of the public.

The Minister for Police: Could you deal with it from the point of view of employer-employee relationships?

**Mr. COURT:** I will come to that in a moment, because I wish to have something to say on the Minister's speech. I want to consider the matter purely in the light of events subsequent to the court decision. If we can only debate the question on that basis, we will leave out the personalities of these two individuals. We, on this side of the House, accept the court's decision, but

apparently the Government has seen reason to doubt it, or to build up some case in its own mind for giving assistance to the party who was declared the guilty party by the court.

The Minister for Transport: Would you have any idea as to how many times the Government led by the present Leader of the Opposition interfered with court decisions?

Mr. COURT: I would not know, but I think it is entirely irrelevant to this case.

The Minister for Transport: I would say that it was done several hundred times.

Mr. COURT: I have no doubt that the Minister for Transport will let us know of the hundreds of cases to which he refers. The sequence of events leading up from this case was extraordinary. We first have the decision of the court; then the recommendations of the acting commissioner—not the same commissioner who gave evidence on the actual case; but the acting commissioner—then we have the deliberations by the Minister and ultimately the decision by Cabinet.

Subsequent to that, we have had all sorts of publicity regarding this matter and I was hoping that when the Minister was stating the case, as he said he would, he would give us a complete picture, because he is the person, apart from the Premier, from whom we should expect the complete story. Although we interjected in an endeavour to give him a lead as to some of the points that needed answering, I feel that the Minister did not give us a complete story. This is the time and the place for the public to have the full story of this case if there are any points which should be weighed up in favour of Police Constable Hardy. I would like to read an extract from "The West Australian" of the 17th August, 1956. It is as follows:—

In his minute to the Cabinet Mr. Bray said that although Hardy acted harshly with Trobridge, certain actions attributed to him were the responsibility of other members of the Police Department.

To the best of my knowledge the Minister has not elaborated that point although I did interject on two or three occasions to draw him out. If other people are implicated, is not this the place to give us that information? If there was something that prompted the Government to give consideration to this police constable, surely this is the time and the place to let the House know of it. The extract then continues as follows:—

Mr. Bray also said that there appeared to have been bungling in Hardy's legal representation.

I feel that is a grave reflection on the Crown Law Department. If my information is correct, the Commissioner of Police was struck out on the positive action of the Crown Law Department.

Apparently Crown Law representatives were able to establish, either with the opposing counsel or the judge involved, that the commissioner should not be joined in this action. I feel the Minister should have been prepared to tell us fully and frankly if that were the case, because if the Commissioner was struck out on the application of the Crown Law Department, it puts an entirely different light on the legal representation that Constable Hardy had, and makes it unfair for him as a Minister of the Government, to say there was bungling in Hardy's representation.

A further point on which I think the Minister should have given us a fair statement of the position in view of the doubt in published statements, is the question as to whether Constable Hardy was disciplined in the force as well as punished by the High Court of Australia. The Press cutting to which I have already referred continues—

The fine also showed that Hardy had been admonished by the Commissioner of Police (Mr. T. Andersen) and was transferred from the traffic branch to the liquor inspection branch.

I understand that was not the position at all. This particular constable had applied for transfer to the Liquor Branch before this incident took place, and his transfer to the Liquor Branch was the result of that application and not from any action arising from this incident, or the court case. I feel we were entitled to have a clear statement on that point from the Minister for Police.

I was also amazed that the Minister could not tell us earlier this afternoon, in response to a question from the member for Greenough, whether the police constable in question has the long service leave entitlement due to him.

The Premier: He was in the Tramways Department before the war. His war service would count, and as far as I know he has been in Government service since he came back from the war.

Mr. COURT: I am not disputing his entitlement if it is due. On a matter of such vital importance that is before the public eye, the Minister should have been able to tell us quite frankly and freely today whether the person concerned was taking his leave because of entitlement to it or whether the Government took the opportunity of giving him the leave. I would not quarrel with the Government sending him on leave a few months before it was due, because it might consider that was the sensible way to handle a situation such as this. It is a matter on which we want frankness because that will help to clarify the position.

The Premier: A question on the notice paper will soon clean that up.

Mr. COURT: Doubtless we will find out tomorrow. The final point I want to make on this matter is this: What would have

been the position had the action of Trobridge been unsuccessful? Doubtless he would have been subjected to very heavy costs. There would have been no damages awarded but he would have had to meet very heavy costs.

Mr. May: That is supposition on your part.

Mr. COURT: There is no supposition.

Mr. May: Supposition of the heavy costs.

Mr. COURT: The costs would have been very heavy. A person cannot appear before the Supreme Court and the High Court without incurring very heavy costs.

The Premier: Unfortunately.

Mr. COURT: If Trobridge had gone to the High Court and was unsuccessful, and if he received a bill for very heavy costs, I just wonder if the Government would have intervened to prevent his bankruptcy? It is amazing what happens when the boot is on the other foot. I have here a file which has been forwarded to me and it is available to any member for inspection. There is nothing confidential in it. It concerns a case at present being negotiated between the solicitor concerned and the W.A. Government Tramways Department, wherein the department is pressing quite relentlessly for the payment of its costs because the unfortunate litigant was unsuccessful, although, in the light of new evidence which has been discovered but which cannot be admitted because of the lateness of its discovery, it would appear that the employee of the department was at fault.

The file contains a letter dated the 4th September from the department stating, "In reference to yours of the 24th August this department is not prepared to accede to your request to waive costs in this matter." Looking at the rest of the correspondence it would appear to be almost hopeless to expect the department to re-open the case. I am not saying it should pay those costs. I am pointing out the position when the boot is on the other foot.

The Premier: You would not expect the Government to pay everybody's costs?

Mr. COURT: No. I put this proposition to the Premier: The Government has created a very dangerous precedent. It is no good saying this matter is without precedent. That cannot be done in government circles.

The Premier: We will decide each case on its merits.

Mr. COURT: The Government is making it very difficult for this and any succeeding Government to decline to meet costs. It is all right for a private individual or a private firm to pay without prejudice or precedent.

The Premier: A Government which does not create a precedent does not do anything worthwhile.

Hon. Sir Ross McLarty: There are bad precedents.

Mr. COURT: In conclusion, I want to make this point: It is important that we distinguish the difference between something done in good faith in the ordinary course of duty, and an abuse of authority. The whole matter really boils down to that differentiation. I cannot imagine anyone on this side or on the opposite side of the House objecting to any Government helping a Government employee who, in good faith and in the ordinary course of duty, has been the victim of some unfortunate incident; but where it is established that what that employee has done has been an abuse of his authority, the position is entirely different. It is on the particular point that the public conscience has been stirred.

HON. SIR ROSS McLARTY (Murray—in reply) (11.51: I have no intention of covering the ground which I traversed when introducing this motion. After hearing the reply from the Premier and the Minister, I feel this motion has been thoroughly justified. I must confess that the Premier did not, from my point of view, make a convincing reply. I have heard him to much better effect in this House when he was on the defensive.

Mr. May: You are on the defensive.

Hon. Sir ROSS McLARTY: The member for Collie did not say a word during the debate. I suggest that he should keep quiet while I make my speech. When replying the Premier dealt mostly with the attitude of the Press. He spent a very considerable amount of time in offering a most vigorous criticism of the Press. As we know, he even quoted leading articles and tried to put the Press in as bad a light as possible.

When we look at the actions of the Press generally we find that in order to be fair, a newspaper printed the whole of the summing up of the three judges, word for word, so that the people generally could get a full appreciation of why they came to the decision they did. Of course there is no question about this: The decision which each of those three judges made was very detrimental to Police Constable Hardy, and condemned his treatment of Trobridge. The Press has not altogether been unfair. When it printed the summing up of the judges in full so that the people could have a full knowledge of how they came to their verdicts, in that respect the Press should not suffer hostile criticism.

The other point stressed by the Premier was that the defendant in this case is a returned soldier. I understand so was the complainant; he is a veteran of World War I. So two returned soldiers are concerned. Let us take the position of a returned serviceman. As we know, there are

hundreds of thousands of them in Australia today, some being veterans of World War I while others belong to the younger generation which fought in World War II.

The Minister for Justice: And some fought in the Boer War.

Hon. Sir ROSS McLARTY: Scores of thousands of them are in responsible positions today. Thousands are in executive positions and carry great responsibilities. I have the fullest sympathy for the returned soldiers and am prepared to make an allowance for what they might have suffered and for the disabilities resulting from their war activity, but surely, even though we have the fullest possible sympathy in that direction, we cannot deny the fact that a returned soldier carries a responsibility! He is expected to carry out the law as a custodian of the law, and even returned soldiers themselves would not agree that he should continue in a such a position if, because of war effects, he could not carry out his duties.

The Premier has not given an answer. He has given a reason why Constable Hardy should have some sympathy shown him, and if there is any doubt about his conduct in this particular case, I should say his war service could be taken into consideration and some practical sympathy shown him in that direction. But nothing in that regard has come out in evidence; not one word. No evidence was put up to the judges that Constable Hardy suffered because of his war experience and that might have had some effect upon their judgment, as I consider if that were the case surely his counsel, in presenting his case, would have made some reference to it.

I hope I quote the Premier correctly when I mention that he said he was not concerned with the judges' statements. He said that Parliament was the highest authority in the land and went on to say that this is a decision of Parliament.

Mr. Ackland: It is not a decision of Parliament.

Hon. Sir ROSS McLARTY: Of course, as the member for Moore points out, in this particular case it is not a matter of Parliament deciding. I do not think Parliament should be expected to decide issues in a case like this.

The Premier: I think the Leader of the Opposition is taking statements from their context.

Hon. Sir ROSS McLARTY: I wrote it down as the Premier made his speech.

The Premier: The statement which I made had to do with a leading article which said that the Liberal Party was trying for the political extinction of the Country Party.

Hon. Sir ROSS McLARTY: This Parliament as well as the Federal Parliament sets up a court to administer the laws

of the land, which gives judgments according to the evidence put before it, and that is exactly what those judges did. They gave their verdict on the evidence put before them. There can be no denying that all the evidence was put before the judges.

The Premier: The verdict still stands.

Hon. Sir ROSS McLARTY: The Premier says the verdict still stands, and there is no doubt what the judges meant when they gave their verdict. The Premier also said, in defence of Hardy that Trobridge offered passive resistance. Just how passive this resistance was I am, of course, not in a position to say, but even on reading the evidence I find that Trobridge did hand this card with his address to the constable and proceeded to take the names of his witnesses, which was a very natural thing to do seeing he did not know them personally and did not know their addresses. It is here that the constable became very annoyed and threatened to handcuff Trobridge and told him he did not care about his witnesses.

Mr. O'Brien: He really got a bit out of hand there.

Hon. Sir ROSS McLARTY: That came out in sworn evidence, and there is no getting away from it. I have met many constables during my time and I think that there are very few of them indeed who would arrest a man and tell him he had no interest in his witnesses because he offered some passive resistance.

The Minister for Police: The Leader of the Opposition does not think that Trobridge baited him?

Hon. Sir ROSS McLARTY: If he did, that did not come out in evidence at all. Supposing he did, is that a justification for the treatment which Trobridge received; treatment which the judges say was shocking, making every possible allowance for the constable having possibly been baited? It is certainly no justification for the treatment that was meted out to this man, Trobridge. The Minister for Police, in his speech, attacked the Press at great length.

The Minister for Transport: That upset the Leader of the Opposition.

Hon. Sir ROSS McLARTY: The Minister became quite hysterical. He said that Hardy was given the difficult job of preventing the cruising of taxis. I do not know whether it is a difficult job or not. I do not think the ordinary constable would find it particularly difficult.

The Minister for Transport: You would not know.

Hon. Sir ROSS McLARTY: I should imagine he would handle this position without any great difficulty. The Minister also said the police understood they



were protected up to the hilt. As I said, when I introduced this motion, I think a policeman has a right to expect a certain amount of protection. If he believes he is carrying out his duty, or if he is carrying out his duty as he thinks it should be carried out, and if he happens to make some mistake—a reasonable mistake—I think it is the duty of the Government to protect him, and that would be the opinion of any reasonably minded person. But it does not mean surely that any Civil Servant or any person in authority can subject the ordinary citizen to treatment which cannot be justified and, in this case, according to the highest tribunal in the land, the treatment meted out to Trobridge was not justified.

The Minister also said it was only a five-minute misdemeanour. A great deal can be done in five minutes. Irreparable damage or harm can be done in five minutes and in this case even if it did take five minutes, the damage had been done; the indignity had been suffered by Trobridge.

The Minister for Transport: He is getting his pound of flesh, is he not?

Hon. Sir ROSS McLARTY: If the Minister thinks a pound of flesh is all that matters, he has a different idea of propriety than I have.

The Minister for Transport: What else could he have got?

Hon. Sir ROSS McLARTY: Has he received any apology from the Minister or the Government?

The Minister for Transport: Why should he?

Hon. Sir ROSS McLARTY: Why should he not? He has been ill-treated; unjustly treated and I think that in fairness he should receive an apology from the Government. The Minister, like the Premier, complained about the timing of this motion. I do not think it matters about the timing; the case for the public is the thing. I make no apology in that direction.

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

Ayes	.....	18
Noes	.....	23
Majority against	.....	5

## Ayes.

Mr. Ackland	Sir Ross McLarty
Mr. Bovell	Mr. Nalder
Mr. Brand	Mr. Oldfield
Mr. Court	Mr. Owen
Mr. Crommelin	Mr. Perkins
Mr. Grayden	Mr. Roberts
Mr. Hearman	Mr. Watts
Mr. I. Manning	Mr. Wild
Mr. W. Manning	Mr. Hutchinson

(Teller.)

## Noes.

Mr. Andrew	Mr. Lapham
Mr. Brady	Mr. Lawrence
Mr. Evans	Mr. Marshall
Mr. Gaffy	Mr. Nulsen
Mr. Graham	Mr. O'Brien
Mr. Hall	Mr. Potter
Mr. Hawke	Mr. Sewell
Mr. Heal	Mr. Sleeman
Mr. W. Hegney	Mr. Toms
Mr. Hoar	Mr. Tonkin
Mr. Jamieson	Mr. May
Mr. Johnson	

(Teller.)

## Pairs.

Ayes.	Noes.
Mr. Cornell	Mr. Kelly
Mr. Mann	Mr. W. Hegney
Mr. Thorn	Mr. Norton

Question thus negatived.

# **BILL—ALBANY LOT 184 (VALIDATION OF TITLE).**

## *Second Reading.*

Debate resumed from the 6th September.

MR. HALL (Albany) [11.24]: I feel a little obscure after the brilliance of the last debate. I do not know whether I am following Diana Dors or Marilyn Monroe. But probably the value of this Bill has much more significance than either. I think there would be several thousand pounds invested in this issue.

My introduction to this case came about through a disputed action between two of the four parties concerned. The dispute occurred as the result of the closing of a laneway running from north to south and servicing four properties. This brought to life the all-important question of the right of title. I should like to read an extract from a letter received by Mr. Speight, one of the parties concerned, from his legal advisers—Nicholson, Verschuer & Nicholson—portion of which reads as follows:—

Dear Sir,

Re Part Albany Lot 184.

Messrs. Haynes, Robinson, Seymour and Mackay of Albany have now sent us their file on this matter, together with a very full and explanatory letter covering the entire case since they have been concerned therein, and the history of the matter.

Without going into too much detail, the position appears to be that there is no Crown grant in existence in relation to the whole of Albany lot 184, which, as you know, is now occupied as four separate properties by yourself and Messrs. Sherwood, Crutenden and Keyser, at any rate there is no record of any Crown grant in the office of the Registrar of Deeds. We, ourselves, have conducted a thorough search in this office and have also made a number of inquiries which confirm this fact. The earliest document which is memorialised in the Registry is a sale of the whole of Lot 184 by the

Municipality of Albany for non-payment of rates when the purchaser was one Thomas Muir, but if there was then no Crown grant in existence the land would, of course, remain Crown land, and the purported sale by the Municipality of Albany would confer no good title upon the purchaser. As far as your particular portion of Albany Lot 184 is concerned, the documents memorialised in the Registry show the land as being vested in one Andrew Muir but, of course, this must also be incorrect at the moment if the land is still Crown property.

We understand from Messrs. Haynes, Robinson, Seymour and McKay's letter that your vendor, Capararo, is himself purchasing the land from a Thomas Muir, who may possibly be a personal representative or beneficiary under the estate of Andrew Muir. If this is so, and if no further conveyance of the property has, in fact, been made, it would explain why there is no other subsequent document memorialised in the Registry, relating to your portion of Albany Lot 184.

I would say that, in clarity for the people concerned, this Bill should be supported by all members. These people have purchased this property in all good faith, and I feel that the members of this Chamber will consider the same. Therefore, I have no alternative but to support this Bill in the interests of the people concerned.

**MR. BOVELL (Vasse)** [11.30]: I do not want unnecessarily to delay the passage of the Bill, but it appears to me that this land is subject to what is termed an old-style title, and perhaps some members may not be familiar with the position in regard to old-style titles. They were created before the Transfer of Land Act was passed in, I think, 1893, when a title to land granted by Her Majesty, Queen Victoria, was subject to conveyance; and if it was sold a conveyance was prepared by a legal practitioner, and so it went on. To transfer such land, the conveyances had to be in the correct order, otherwise the transfer could not be effected.

After the Transfer of Land Act was passed, a clear certificate of title was given under it and all transfers were endorsed on the title itself. This gave a much better facility for landholders to transfer land from vendor to purchaser.

The Minister for Justice: That is the Torrens system.

**Mr. BOVELL:** That is so. People with old-style titles, to save difficulties such as it is apparent this land has been involved in, should make application for the abolition of their old-style titles and bring their land under the Transfer of Land Act. That would save any future

action such as this where the time of Parliament is being occupied with what is really unnecessary procedure.

If everyone with an old-style title lost something pertaining to it and could not trace the exact ownership and then asked Parliament to deal with the problem, we would be occupied with doing nothing else but dealing with difficulties concerning the transfer of land which, in my opinion, is not advisable.

The system of the old-style titles mainly applies to the older-settled districts such as Geraldton, my own district, Bunbury and Albany, where the early settlements took place and land, as I have said, was granted by Her Late Majesty, Queen Victoria, to residents of the State for certain considerations. During my banking experience in Geraldton and Albany, I saw one certificate of title granted in 1842, and attached to it were individual conveyances, one to another, over the years. If, with old-style titles, one of these conveyances is missing, it is most difficult for the legal system to enable the land to be transferred.

In my opinion, we are now concerned with this land because of the fact that the old-style title and the relevant conveyance have been mislaid. The time of Parliament, therefore, is being occupied in sorting out the trouble for this landholder. If members know of constituents with old-style titles they would do well to advise them to bring their land under the Transfer of Land Act.

Question put and passed.

Bill read a second time.

*In Committee.*

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

*House adjourned at 11.38 p.m.*