a person, though perhaps known to be infected, cannot be arrested and detained. It is unbelievable that a plague or small pox case or contact should be able to be at large in defiance of the health authorities; yet owing to the defective wording of the principal Act, that position might arise. The new clause will confer on the Commissioner proper power to enforce obedience to any order for quarantine in such cases. Clause 57 empowers a school medical officer to take action in respect of unclean school children, and requires the parents of such children to institute prompt measures. I think practically all the other amendments are in the direction of improving the machinery of the principal Act or making good omissions from, or defects in, that measure. The Bill is to a large etxent a Committee measure, and I have no doubt that when in Committee, the controversial clauses will be exhaustively considered. All that I have endeavoured to do this afternoon is to sketch the main principles of the Bill. In view of its great importance and of the necessity for our doing at this juncture all we can to preserve the young lives of the community, to prevent the spread of any diseases that may be brought amongst us, I trust, in fact I know, that hon. members will approach the Bill merely with an earnest desire to perfect the health legislation of the State.

On motion by Hon. W Kingsmill, debate adjourned.

House adjourned at 6.11 p.m.

Legislative Assembly,

Tuesday, 5th February, 1918.

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

[For "Questions on Notice" and "Papers Presented" see "Votes and Proceedings."]

MINISTERIAL STATEMENT—TREASURER'S CONFERENCE.

The COLONIAL TREASURER (Hon. J. Gardiner—Irwin) [4.47] having obtained the leave of the House said: As hon. members know, I have just returned from a visit to the Eastern States. I thought it would be only right and courteous, and the correct thing, that as Parliament was sitting I should lay whatever information I had before the members of the House regarding the result of that trip. I will first deal with matters that occurred at the Conference, and then with those matters which I also tried to attend to, and did attend to, which have a great deal to do with this State. The first matter dealt with at the Conference was the question of the extension of time for the repayment of the £3,100,000 loan. As the House knows, this was a portion of the 18 million pounds loan raised by the Commonwealth for the States. That position I think I have on one or two occasions made abundantly clear, and that is the stand I took, that the 18 millions was borrowed from the Imperial Government, but it was borrowed by the Commonwealth Government as agent for the whole of the States. The question of the repayment of this amount was raised at the Conference, and Sir John Forrest, the Federal Treasurer, made a stipulation that, provided we agreed to take only such sums as the Commonwealth could agree to find for us during the present year, this repayment would be extended until one year after the war. I refused at the Conference to discuss these two things together. I said these were two transactions distinctly apart one from the other. One was the sum of 18 millions raised by the Commonwealth. The other question was that of how much money we required to carry on the various States during the calendar year. And I did not want the whip to be held over our heads all the time we were considering this question. I made this abundantly clear to Sir John Forrest when he attended the Conference, and Mr. Holman, the Premier and Treasurer of New South Wales, gave me every support. When Sir John Forrest attended the Conference again he said he was agreeable to consider our view, and would renew these loans till five years after the war, or at a period not later than 1925, which was the first date at which their loan, borrowed from the Imperial Government, matured. When I got that far I wanted to get a little farther if I could, because some of the loan matures in 1945. I tried to get Conference to agree that if the British Government gave an extended term to the Commonwealth Government for the repayment of that 18 millions, whatever terms they gave for the extension were due to the States, seeing that that money had been borrowed on the average at about £4 2s. 6d. per cent. Conference thought we had gone far enough, and that having got that far it was just as well to let the other question rest until the loan had matured. As a result of this consideration we then agreed to try as far as possible to fall in with the Treasurer's wishes with regard to the money that the States required to carry on with for the present calendar year. The Commonwealth Government started by saying that £2,700,000 was the most that they would agree to borrow for the States, and eventually we got them up to three millions. Of that three millions Queensland was to receive £1,350,000, South Australia £775,000, Western Australia £700,000, and Tasmania £175,000. We could not see how we could get through with three millions, and to start with we asked for practically £475,000 more than that. But on again seeing the Treasurer, he said that this was the absolute maximum that we could rely upon the Commonwealth borrowing for the States. In order to bring ourselves down to that three millions Victoria agreed to forgo £200,000, which was what she was asking for. I was asking for £750,000, but I agreed to

come down to £700,000. South Australia was asking for £850,000, and this was reduced by £75,000; Tasmania reduced her request by £25,000, and Queensland reduced hers by £125,000. It will be noticed that Queensland got £1,350,000. We got £700,000, and South Australia £775,000. But we had to consider Queensland's claim in that she had received no money at all out of the 18 millions already borrowed. Western Australia was given authority to raise locally £650,000, which was roughly £250,000 more than we were allowed to raise last time. The reason why I took this was that I had borne in mind that we were asking the insurance companies to put up £5,000 deposit, which would mean that I would practically have to issue to them £200,000 worth of local inscribed stock. The reason why Victoria stood out was that she has greater facilities for borrowing locally than we have. Consequently the position of Western Australia is this: that the Commonwealth have to find us £700,000 and we have authority to borrow locally £650,000. But the Commonwealth Government ask the whole of the States, in view of the war loans, to exercise this right to raise money locally as sparingly as possible. That deals with the loan transactions. We get £700,000 under these circumstances, and we get the old loan extended until five years after the war or until 1925. Then we come to the question of the Surplus Revenue Act. If ever there was an action done by the Government that was likely to make any sane man who believed in decency incensed, it was the action of the Government with regard to the amendment in which they deal with the Surplus Revenue Act. This Act provided for the giving of a sum of 25s. per head to the States, and a special allocation to Western Australia, and whatever was left had to be divided on the population basis amongst the States. The Act is extremely mandatory and says that on the 30th June whatever balance there is left shall be distributed amongst the States. There was a three millions surplus the year before last. That was on the 30th June. But in May of that year they passed an appropriation to the Old Age Pensions Act and took £3,500,000 so as to absorb that three millions as well as an extra £500,000. When the last year closed they had very nearly a surplus of two millions of money. By an appropriation they then had they had that amount covered except to the extent of £221,000. They forgot in fact to get their full appropriation, and the consequence was that on the 30th June they passed to the credit of the Old-Age Pensions Act the sum of £221,000, for which they had got no appropriation, and which legitimately belonged to the States. And what do they do? They see their difficulty and then in September pass an Act of Appropriation for the sum of ten million pounds. Just imagine that! The old-age pensions are just as much an annual charge against Consolidated Revenue as any other expenditure, and yet, in order to beat the States, they pass an Appropriation Act for ten millions of money, so as to cover any little shortages for the balance of the term during which they are giving us this consideration, namely, until 1925. Through their Auditor General they found that they had no appropriation, and what did they do then? In September, 1917, they passed an Appropriation Act and made it date back as from the 30th June. My contention is this: that legally or illegally they had no right on the 30th September to transfer to any other fund which they had the sum of £221,000, which belonged to the States, on the 30th June. That was the position I took up before the Conference. Conference is getting the opinion of the Crown Solicitor of Victoria on that question, and it is possible we may establish our claims to the £221,000 which they have distributed, and which they passed to the Old-Age Pensions Act without an Appropiation Act. Then we come to the question of the 25s. for soldiers. I put this case before Conference; and as far as possible I used at the Conference those arguments which I have used in the Press here. I pointed out that the Commonwealth treated the soldiers as citizens of the Commonwealth by giving them citizen rights. That was the position. If they gave them citizen rights for the Commonwealth they had no right to deny us the citizens' payment when it came to the per capita allowance. I asked these two questions: Assuming that this war had been within Australian boundaries and Western Australia or Queensland—one of the two extremities of the Commonwealth—had been assailed; would it then have been a fair thing to pay Western Australia 25s. per head on the soldiers who were fighting here and who came from another State while that other State would receive no payment? Why, the thing is absurd! I also asked this question: Suppose conscription had been carried, and the Commonwealth compelled the citizens of Western Australia to go to the Front; what right would the Commonwealth then have had to deduct the 25s. per capita from our population? The general opinion of Conference was that legally, morally, and from every other standpoint we were entitled to the 25s. The matter is being fully gone into, and the best legal advice will be taken on it; and it is to be finally dealt with at the conference of Treasurers and Premiers to be held in April.

Hon. P. Collier: That matter is still pending, then?

The COLONIAL TREASURER: Still pending. I had an interview with the Prime Minister on the subject; and he, as hon. members will recollect, said at the Premiers' conference——

Hon. W. C. Angwin: We do not take much notice of him.

The COLONIAL TREASURER: Perhaps that is exactly the feeling I had. The Prime Minister said at the Premiers' conference that he thought it was a just claim. When I put the matter before him again he replied, "You have made out such a case that I think those States which have not benefited from the large expenditure of war money as New South Wales, Victoria, and Queensland have done, should at least receive their 25s. per head, because they have been depleted of their population." Next as to repatriation. After the conference I had a long interview with Senator Millen, at which it was pointed out that

apparently every State was in the same position as Western Australia over the matter of repatriation—in the position of not knowing where we were. I am just stating what is an absolute fact. Senator Millen is of the opinion that there ought to be another conference on the subject, when the whole system could be clearly laid down and we could know where we were. That is to say, we are to know what the State has to do, what the Commonwealth has to do, and what the State cannot do with the funds which are to be advanced by the Commonwealth Government. I will say quite candidly that Senator Millen impressed me as a man with a pretty clear grasp of the position, and as a man who knew what he was talking about; and Senator Millen's own idea was that as far as possible the returned soldier should be put on those areas where his own work would be the chief asset; that is to say, that the returned soldier should be put to the production of butter, bacon, eggs, fruit, and so forth. Senator Millen further stated that he thought we should make specific settlements for this purpose, and the Commonwealth would allow the State to expend distinct loan moneys in the erection of factories and other conveniences whereby settlers would be saved time and assisted in the disposal of their crops. In other words, he was in favour of making the soldier settlers co-operative in all directions where time and money could be saved. Senator Millen also thinks that the States would be perfectly justified in spending loan moneys on, for instance, putting down irrigation channels where required. That, he thought, was a legitimate expenditure of loan moneys.

Hon. P. Collier: And the Commonwealth would recoup?

The COLONIAL TREASURER: There is no recoup about this. The money to be advanced by the Commonwealth, however, could be used by the State for the purpose of putting down main irrigation channels. Otherwise, the State would have to spend from its own funds for the making of such channels. The Commonwealth are advancing us a sum of, I think, £500,000; and we can use that loan for that purpose.

Hon. W. C. Angwin: We shall have to pay interest on that loan.

The COLONIAL TREASURER: We will not worry about interest. Let us not lose sight of the fact that the Commonwealth laid down certain directions in which we cannot expend their loan money. For all other services such as surveys, etcetera, the cost is to be added to the land and to be paid by the State. I was up against the position here that all the surveys had been charged up to these funds; and now I have to make an adjustment. Repurchased estates are to be paid for by the State with the State's funds. I made a satisfactory arrangement whereby upon the furnishing of certain certificates the money expended would be repaid to the State. We have received no money yet, and neither has any other State.

Hon. P. Collier: Did you learn when the Commonwealth proposed to start making advances to the States?

The COLONIAL TREASURER: There is going to be no difficulty about that, I am sure. We send along certificates, and the Commonwealth will repay us the money.

Member: Will that provision apply to soldiers settled on repurchased estates?

The COLONIAL TREASURER: Yes, of course. A question I asked was, "In the event of any failures, who is going to bear the loss, I want to know?" That was a very pungest question so far as I was concerned, and Senator Millen's reply was, "The States are to bear the loss of any failures, it being assumed that the expenditure supervised by the State has been such that it has increased to that extent the assets of the State." I raised the question of assistance to Western Australian soldiers who had been under the Industries Assistance Board or under the Agricultural Bank. I discussed the matter with Senator Millen, and I quoted concrete cases. Just off hand Senator Millen was inclined to agree that the soldier who had left his farm would be entitled on his return to the full advance of £500, irrespective of his previous obligations. However, the Senator desired me to put a full statement before him, whereupon he would come to a final decision. I am satisfied that before absolute finality can be reached on this great question, a conference will be required to be held, and that that conference will have to be attended by practical men and not by theorists. Then we came to the question of the amalgamation of State and Federal offices—taxation, electoral, and Agency General. The question of the amalgamation of these offices was raised by me, but was deferred for the Premiers' conference. The general impression, however, was that all the Agents General should be housed in one building, and that as far as possible economy should be practised in their housing. There is a general opinion that the Agents General are housed too expensively. That was considered one direction in which economy could be exercised. There was no disposition shown, however, at the conference in any way to do away with the office of Agent General for each individual State. Victoria is now taking steps for the amalgamation of her electoral office with that of the Commonwealth, and I think we shall be able to fall into line, the difficulty, however, being the differences between State and Commonwealth electoral boundaries. Load line requirements are a very vexed question. Before America came into the war that country took little or no notice of load line, with the result that vessels coming into competition with American ships were placed at a disadvantage. Now that America is in the war, the general desire of conference was that there should be a levelling up, not a levelling down, as regards the load line of vessels. The thought expressed was this: We have not only to secure the cargo, which would be endangered if the vessel was overloaded, because she might then go down; but, above all other considerations, we have to think of the lives which will be endangered if the load line is disregarded. The question

will be fully gone into, and a recommendation for the levelling up, and not the levelling down, of load lines will be duly submitted. With regard to port and harbour dues on transports, we are in a most peculiar position. We are getting practically nothing for transports. I think we had 12 transports come in to take all kinds of cargo, and yet we received no dues on them. Victoria, since last November has been receiving the full dues on such transports. South Australia ever since the commencement of the war has been getting half dues. Western Australia, Victoria, Queensland, and Tasmania have been practically getting nothing.

Hon. W. C. Angwin: I thought the Prime Minister agreed to pay those dues some time ago.

The COLONIAL TREASURER: I think there is an understanding of some kind on the subject; but, at any rate, it is referred to a conference of officers at present being held. That conference will meet the Commonwealth officer, and will recommend what dues may be charged by the States and what are to be regarded as military supplies. For instance, it was held that if the British Government had bought jam for the British Army, that jam, of course, had to go free, but that if the jam was put on a transport for general sale, it ought to pay dues.

Hon. W. C. Angwin: The Prime Minister agreed to pay dues in such cases.

The COLONIAL TREASURER: I do not think so. At any rate, a conference to fix up the matter is now being held. With regard to uniformity of taxation returns, the Federal Treasurer had a taxation measure which he purposed laying on the Table of the Federal House, but on representations by the State Treasurers it was held back. A perusal of the measure clearly showed that although the Commonwealth taxation officer attended the conference of State taxation officers, the Commonwealth had practically taken not the slightest notice of their recommendations, which, by the way, had been agreed to by the Commonwealth taxation officer. The principal objection in this case was that the Commonwealth had made no provision for taxing income at its sources. In other words, instead of collecting, say, the duty on dividends from companies, the Commonwealth still intended to collect it from individual shareholders; and they purposed, in addition, to make the Commonwealth collect the taxation for the States. The States thought they would never get any money at all if the Commonwealth collected State taxation. We entirely disagreed with that proposal, and pointed out that the taxation, whether gathered by the State or by the Commonwealth, was gathered from the same people, and that these people wanted a uniformity of return so as to save at least irritation We wanted to see the States collect so as to save duplication of offices and expense. In passing these resolutions all the State Treasurers freely expressed the opinion that the people would resent being taxed for the purpose of building up a huge duplication of two services. The subject will come up for final decision at the Premiers' conference Next, with regard to raising the rate of interest on transferred properties. Originally the Commonwealth paid the States 3 per cent, and later 3½ per cent. I thought it nearly time we got something more, but I was not very successful. It was considered wise at the present juncture to let the existing position stand; but Mr. Holman, the Premier and Treasurer of New South Wales, made a suggestion which I had got the States to agree to as far back as 1903. That suggestion was that the Commonwealth, instead of paying the States interest on the transferred properties at the rate of 3½ per cent., should take over the amounts of the transferred properties and credit those amounts against any loans which the Commonwealth raised for the States. The stoppage of payment of dues on State imports was another question which I raised, and the State Treasurers all agreed that it was time some action was taken for the discontinuance of the practice. In three years the State of Western Australia has paid in dues in this connection something like £45,000. Indeed, even during the drought the Commonwealth charged this State full duty on either bran or maize.

Members: On maize.

The COLONIAL TREASURER: It was on either one or the other. The Treasurer of Tasmania also quoted a glaring case. It was, however, considered to be one of those questions which would have a better chance of favourable consideration at the end of the term for the payments. It was considered that we could at that date put forward the argument that the States had been getting back a clear three-fourths of the Customs revenue but were then receiving little or nothing. Then there was the question of payment of old-age pensions to inmates of charitable institutions. I drew attention to the farcical manner in which the Old-age Pensions Act is administered in regard to State charitable institutions. Hon. members probably do not realise how absurd this is. If a man is in our Old Men's Home at 64 years of age, when he becomes 65 he cannot get a pension, because the Commonwealth authorities say he has been receiving State charity. And it is even worse than that. Assuming that we take an old-age pensioner into one of our hospitals, if after being there for 27 days he is discharged, the Commonwealth authorities pay him the pension he was entitled to during the term he was in hospital; but if he remains there longer than 27 days they will neither pay him his old-age pension nor pay it to us. We have something like 560 old men in our homes, and we are receiving old-age pensions for 108 of them, notwithstanding that 340 of them are entitled to receive those pensions The other States had not gone into this question, but they agreed that after this it would be one of those subjects upon which we could get right down to bedrock.

Hon. W. C. Angwin: But they were getting better terms than we were.

The COLONIAL TREASURER: Yes, 2s. a week more.

Hon. P. Collier: That is their peculiar method of evasion. They postpone an awkward

question from Premiers' Conference to Premiers' Conference. The agenda papers of the Premiers' Conferences have held identical subjects for the past 10 years.

The COLONIAL TREASURER: That is so, but we now have an arrangement by which each State is to go into this question. Then there was the subject of the payment by the Commonwealth for legal services rendered by the States to the Commonwealth. When I quoted specific instances of unfairness it seemed to amuse the conference. Still, it was generally felt that for all services rendered there should be the one principle laid down, namely pay and be paid, as against the old system of the States paying every time they required services from the Commonwealth, and trusting to the generosity of the Commonwealth to pay for services rendered by the States. Here are several instances that occurred: We had a boat coming through to Albany. Some four men deserted from her here. We prosecuted for the Commonwealth, and I think those men got six months in gaol. Here is the irony of it: The Commonwealth made the State pay for the maintenance of those men while in gaol. Again, in a prosecution under the War Precautions Act, a man is fined £15 or £20. The Commonwealth takes the fine. If, on the other hand, the man is sent to gaol, the State has to maintain him. The Commonwealth authorities protect themselves behind the Constitution. The general tone of the conference was that it was high time the States took action to protect themselves. At the close of the conference the Premier and Treasurer of New South Wales, who has attended a number of such conferences, said that a most satisfactory feature of the proceedings was that all the Treasurers were unanimous on questions upon which previously there had been diversity of opinion. When the Commonwealth Government found diversity of opinion they played upon it. He said there had been a good deal of bite put into the whole of the proceedings, and he was good enough to add that much of it came from the Treasurer of Western Australia.

Hon. P. Collier: You were the Great Australian Bight.

The COLONIAL TREASURER: Mr. Holman went on to say that it was felt that the unanimity of the conference would exercise a strong influence in convincing the Federal Ministry that more regard must be paid in future than in the past to the financial obligations the States have to discharge. So much for the Treasurer's Conference. Other matters I have attended to concern pretty well every member here. Many of them had been in abeyance for a considerable time past. The leader of the Opposition will remember that the Commonwealth took over the lighthouse system in 1915. I found that they had not got any for'arder. They had taken the lighthouses from us, and taken the revenue, but had made no settlement. The total sum involved was roughly £130,000. I practically got that fixed up, and I am to receive 3½ per cent. interest from 1915. There have been attempts made to get some pearl shell shipped, owing to the big prices obtainable in London. I saw the controller of shipping and endeavoured to get shell placed on the priority list, to enable us to ship small quantities, and thus take advantage of the market. Admiral Clarkson suggested that the only possible chance of this being done was for us to communicate with our Agent General and, through him, the proper authorities in England. He said there was no possibility of any permission being given from this end. A copper pool has been established to deal with the whole product of copper in Australia. The West Australian Government were desirous of entering the pool, but under the agreement there were two insuperable objections. One was that we were to take shares in a company amongst which any profits, commission, etc., in the handling would be distributed, the other being that the agreement was to be for 50 years' duration. Unfortunately the secretary of the pool was away on holidays, but I saw one of the directors and pointed out to him that it would be impossible for the Government to take shares in any company, and it would be further impossible for the Government to bind their successors to be parties to the pool for 50 years. Nevertheless, I explained, we wanted to participate in the pool on other terms, and if we came in we wanted to feel that we would not be penalised when it came to selling, merely because we could not fall in with the two conditions named, and that we would receive the same price for our product as the other parties to the pool. The director was good enough to realise our disability, and he suggested that we should state exactly those conditions to which we objected, when he felt sure that, in the circumstances, the pool would enter into an agreement with Western Australia to exempt us from any conditions which, as a Government, we could not comply with. I interviewed the secretary of the Metal Exchange in regard to the difficulty which exists in connection with the prices of lead from Western Australia. A contract was made for loading under a certain fixed freightage. That freightage has increased enormously, and I was asked to see the Metal Exchange with a view to ascertaining whether the prices could not be advanced to cover the increase in freightage. Unfortunately, the contract was made in London. All the Australian contracts were made at f.o.b. rate. The secretary suggested that we should get the representatives of the companies here to act with our Agent General in laying the matter before the authorities in England; and he seemed to think there would be no doubt that they would readily comply with the request of the proprietors here, as otherwise it would be impossible for them to produce at any profit. As a result of that advice, they cabled to London and got it satisfactorily arranged. The question of galvanised iron for covering wheat stacks is one of grave anxiety to Western Australia, and as the season ad-

vances it must become even graver. I interviewed the Wheat Board. They, of course, are in grave difficulties themselves in regard to the question of galvanised iron. But we have this assurance: they will send us a shipment in January and another in February, and we are to have the first call on whatever comes in in March. Recognising our isolation, they are prepared to give us priority of consideration. They will give us preference. They say that all the stacks must eventually be covered with galvanised iron. They have made experiments with other material, but they are convinced that only galvanised iron will be satisfactory.

Hon. W. C. Angwin: Have they tried jarrah?

The COLONIAL TREASURER: I do not know. Then there is the question of claims for special constables. At the outbreak of war we were requested by the Commonwealth Government to make provision for special constables to protect railway lines, bridges, water supplies, etc., and in several instances we were asked to increase the protection. We kept wiring back, saying that this was being done at the Commonwealth's expense. The total amount paid amounted to nearly £15,000, but we have never been able to get any satisfactory reply from the Commonwealth. I interviewed Mr. Groom, the Assistant Minister for Defence, who seemed to think it was an obligation on the State to do this kind of thing in war time. I pointed out that we had been taxed to cover this war expenditure. He then said the Constitution might absolve the Commonwealth Government from payment. I suggested that I issue a writ to prove whether the Constitution did, or did not, so absolve them. That ended it. He said, "We will go into the matter," and I said, "If you do not I will put the writ in; you can take that as final. We are running on borrowed money and we have been paying interest on your obligations for the last three years." I attended the wheat conference with Mr. Gregory. A good deal of controversy has been incited in the various States by the suggestion of Mr. Hagalthorne that agriculturists should be discouraged from putting in wheat, and should go in more for stock. At the conference the balance of opinion seemed to be generally in favour of continuing wheat production, or, alternatively, of letting each individual State consider its climatic and other influences over production. I met Mr. Love, who was taking over the wheat stacks from the Commonwealth for the British Government. He pithily said, "As freights are going to be a grave consideration, and space another grave consideration, and as Australia only produces her export stuff for roughly five months in the year, it would be much saner to go on producing grain." Mr. Love is a man of very wide experience, and I am sure that when he visits Western Australia, as he will shortly, his views will be well worth consideration by agriculturists. Professor Lefroy, a relative of the Premier's, claims to have discovered a process by which the weevil meance will be at least greatly minimised. He proposes to use sleepers as a foundation for the stacks, and to spread on those sleepers an insect poison, while right through the stacks he will put in other layers of sleepers to let the air through. By this it is hoped the weevil difficulty will be minimised, if not eradicated.

Hon. W. C. Angwin: I see that he says that if the wheat gets wet there is bound to be weevil.

The COLONIAL TREASURER: Then there was the question of a coal pool. Western Australia, with Victoria and South Australia, has to rely to a great extent during certain months of the year on a supply of Newcastle coal. Consequently, it was suggested that we should form a coal board, the object being to arrange as far as possible a pooling of freights and, where shipping could not be obtained, an apportionment of that freight, according to the consumption of the individual States. That was the idea of Victoria and of South Australia. It did not exactly coincide with my idea. Admiral Clarkson laid down before me a proposal in regard to this pool. It involves two grave questions affecting Western Australia, namely, the getting of a boat to assist in bringing down the cattle, and the sending to Christmas Island for phosphatic rock—not this year but next year. The proposition involved was this: there are a lot of small boats engaged on the coastal trade of Australia that could not afford to carry coal at the present rate fixed for its carriage, but the States were willing to pay an additional cost—that is Admiral Clarkson's idea—for their coal and these boats might be employed and as a result coastal vessels could be released to carry on the trade of Western Australia, for instance, and the other States that might require it. The question of getting our cattle down from the Nor'-West is one of vital importance to us, but even vital as this is, the question of getting supplies of phosphatic rock from Christmas Island is infinitely more vital to our farmers. Messrs. Cuming Smith, and the Mt. Lyell Coy. informed me that unless they can make arrangements to get down phosphatic rock from Christmas Island, whilst they can supply super. for this year, there will practically be no probability of them supplying super. for next year, and during the interim a large number of hands will be out of employment.

Mr. Lambert: The State should never do that until they get an undertaking from the Christmas Island people that they can supply phosphatic rock.

The COLONIAL TREASURER: The seriousness of this position impressed itself so strongly upon me and upon Admiral Clarkson that I tried before I left to arrange a conference of the coal board, for if this could be satisfactorily fixed up, I would be assured of a boat to bring down our cattle and thus release one of our boats to bring at least 24,000 tons of phosphatic rock from Christmas Island and with two other boats which we might be able to get, we would have had sufficient to ensure us a supply of

super. for the season after next. Consequently, I arranged with Mr. Fuller, the Chief Secretary of New South Wales, to call a meeting of the coal board for last Monday or Tuesday and I left Melbourne on the previous Thursday night to arrange with South Australia to fall in with this suggestion. Unfortunately some hitch occurred and whilst New South Wales appointed their representative, they did not call the meeting, so that all my work in this direction was nullified for the time being, but I wired to the Premier of New South Wales suggesting that a meeting should be called for next week and that we would appoint one of our Federal members (Mr. Gregory) to represent Western Australia. I received the personal thanks of Admiral Clarkson for trying to assist him, but one can easily see that two of our producing interests are vitally affected in this particular, and that whilst the probabilities are that the Government and other consumers of our coal will have to pay a higher freight, we must be prepared to face this position in order to allow our stock owners and farmers to be certain that their arrangements are to receive consideration. In regard to the tick conference; there is a conference to be held in Queensland and if necessary I arranged with the Treasurer of Queensland that a daily telegram should be sent to us in order that we might arrive at some finality. Now I come to the steamship "Kangaroo," and I confess that I could not find out who had offered the "Kangaroo" to the Imperial Government, but after the closest inquiry I am convinced that the shipping board was not responsible for this without Western Australia being consulted. I am inclined to think that it was one of those cables which the Prime Minister signs as a matter of form. I told the controller of the shipping board that so far as the Western Australian boats were concerned, they belonged to His Majesty's Government of Western Australia and that if the Imperial Government desired at any time to negotiate for the use of these boats, it must be done with the Government of this State. I discussed the question and I may say that my opinion is that so far as the requisitioning of the "Kangaroo" is concerned, no further steps will be taken by the Commonwealth Government, but I had a discussion with the Prime Minister on this subject and he seemed to think that the Imperial Government would undoubtedly requisition the "Kangaroo." He suggested that we should make a clear statement of what the "Kangaroo" had earned during the last twelve months: that we should realise that the only freight that she could earn from Western Australia would be at the rate of £7 10s. per ton but that we could make up an additional freight on what she brought to Australia, and if there was a difference between what she earned under these circumstances and what she previously earned, that both the State and the Commonwealth should bear a proportion of the loss. In regard to the s.s. "Kwinana," there was a suggestion that the "Kwinana" should on her return trip bring nothing but coal. I thought that was over the odds because coal is an article on which there is no profit and I thought that we should have a share of the paying traffic. I told the Prime Minister quite clearly that we were not going to have our boat bringing more than her proportion of coal and that we did not think it would be fair to make our boat bring all the stuff that only carried with it a low freight and allow the other boats to bring the high freighted stuff. He considered that was quite a fair position to take up. I went into the question of the payment of the 1915-16 wheat pool and was faced with this position: New South Wales and Western Australia are the only two States that have got rid of the whole of their 1915-16 pool. South Australia has about 20 per cent. of hers left and Victoria less. They are forcing the millers in both States to use this particular wheat for flour but until this has been done they do not purpose making a final payment on account of this pool until all has been fixed up. From what I can gather there is likely to be 3d. to come to the pool. In regard to the 1916-17 wheat; there will be no further payment made at present because they have no money to make it with. In regard to the 1917-18 wheat the position is this: the Commonwealth arranged to make an advance of 3s. guaranteed by the States, but they practically guaranteed 4s Whatever loss there may be up to 3s., the States have to pay. Whatever loss there is between 3s. and 4s. for the 1917-18 crop is to be borne equally by the Commonwealth and the States.

Hon. P. Collier: That is not in accordance with our decision. We have not committed ourselves beyond 3s.

The COLONIAL TREASURER: The 1917-18 crop has not yet been paid by the British Government. As to explosives and other matters, one of the most irritating matters that I had to deal with was the question of releasing for our mining industry the high explosives which are lying in our magazines and are deteriorating. I went into this matter pretty fully and before communicating with the Minister for Mines, submitted the telegrams to the Director of Munitions so that there could be no misunderstanding. Their case was that we were entitled to, say, 90 per cent. of one class of explosives and 10 per cent. of the higher explosive. Shipments had arrived here and were on the water for a much higher percentage of high explosive. The authorities wanted the surplus kept in order that if future shipments did not contain the proportion of high explosives, they could even them up by those that were kept in reserve. When they raised this question I told them that it seemed peculiar to me that the files which I had with me did not show this as the reason for their action, but that I would send it to my Minister for Mines to see what he had to say in the matter. He sent back a telegram that scorched the wire. It was an indignant reply and his indignation fired my indignation and I just said a few straight words to these people and told them that unless they released these explosives, two action

were open to me, to again consult the Prime Minister who had described the holding of them as an assinine proceeding, or for the State to put them into use and see what the authorities could do, seeing that we had the Imperial authorities' sanction for them coming to Western Australia. As a result of this it was eventually agreed to release the high explosive with us in Western Australia and that on the water, on condition that if any further shipment arrived short of the proportion of the high explosive, they were to be absolved from all responsibility and the responsibility would rest on the State. My own personal opinion is that they will take steps to advise the Imperial Government to let further shipments come with a smaller quantity of high explosive than is the proportion, and I therefore advise the Minister for Mines and the mining people of this State to at once take action to place their case before the Imperial Government, as I advised my representative in Melbourne that they can conclusively prove to the British Government that by letting them have a higher percentage of high explosive the mining operations will be conducted more cheaply. The health of the men will be better preserved and they will use as a result less of that explosive which the British Government desire to conserve, than under the present suggestions of the munitions department of the Commonwealth Government. I had a long interview with the general manager of the Commonwealth Bank, and arranged to renew our obligations maturing this year. I also discussed with him the question of our London agency, and the amalgamation or transference of the Savings Bank. These two latter questions are to be the subject of mature consideration and discussion when Mr. Miller visits Perth in the course of two or three months. Those are the subjects I have dealt with, and I thought it was due that I should lay the full particulars before the House. I thank hon. members for their courtesy in listening to me.

BILLS (2)—FIRST READING.

(1) Prisons Act Amendment.
(2) Criminal Code Act Amendment.
Introduced by the Attorney General.

BILL—SEWERAGE ACT VALIDATION.

Second Reading.

Debate resumed from the 29th January.

Hon. P. COLLIER (Boulder) [5.46]: This would appear to be an unimportant little Bill designed for the purpose of validating some acts of the Minister or his officers in relation to Clauses 19 to 23 inclusive of the original Act. It may or may not be important, but I confess that I am quite unable to say whether I shall be prepared to support it or not in that the Minister in moving the second reading refrained from giving the House any information as to what acts of omission or commission it was proposed to validate. Clauses 19 to 23 of the Act of 1909 mainly provide that the department should give notice in the "Government Gazette," or by way of advertisement circulating in the district, of their intention of extending existing works or constructing new works in any given district. Of course that month's notice is intended to provide ratepayers or local governing bodies or others with an opportunity of objecting if they are adversely affected. I do not know what action it is proposed to validate in this case. I know that more than once the department has omitted to give the necessary four weeks' notice because it may have been decided at very short notice to continue works already in existence. If anything of that nature is the object of the Bill I have no objection to it. In introducing the Bill the Minister stated that he was not quite sure what it was proposed to validate; he said it was something that occurred during the time I was in charge of the Water Supply Department.

The Minister for Works: I told you plainly that there had been an act of omission on the part of an officer.

Hon. P. COLLIER: But we must know the nature of that act of omission. What was it that the officer omitted to do? If it was that he failed to give four weeks' notice of the intention of the Government to construct works in a given area, the omission was not a serious one. I know that at times it is difficult for the department to comply with the provisions of the Act.

The Minister for Works: A month's notice was given and it was published in the "Government Gazette" and also in the "West Australian," but an Order-in-Council was not put through.

Mr. Smith: Was an injustice done to any ratepayer?

Hon. P. COLLIER: If that is the case, the omission was a trifling one, and in the circumstances I shall not oppose the Bill.

Mr. TROY (Mt. Magnet) [5.49]: I have an objection to passing these validating Bills, because their effect may be injurious to an individual or to a community. I was surprised that the Minister for Works, when introducing the Bill, did not give the House any information beyond stating that the object was to rectify the omission of an officer. The House wants more information than that. When the Bill was introduced I made up my mind that I would not vote for it unless the Minister told us a good deal more than that.

Hon. P. Collier: He has given us the information now by way of interjection. It should have been given on the second reading.

Mr. TROY: Bills of this character appear to be of very little consequence, but when they pass into law it may be found that an injustice has been done to someone. In the present case I hope the Minister will place the full facts before the House when he is replying.

Mr. SMITH (North Perth) [5.52]: It is my intention at this stage to oppose the Bill, because the Minister has not supplied us with any information in regard to the acts he proposes to validate.

The Minister for Works: What information do you want?

Mr. SMITH: I want to know what the omissions are, because an injustice may be

done to a ratepayer, and the House should not pass any legislation which is going to rectify a bungle made by the Water Supply Department. We all know that a great many mistakes have been made by this department, and the officers should be made to stew in their own juice for those mistakes.

The Minister for Works: We have to pay for them; the officers do not pay for them.

Mr. SMITH: I think sometimes that the officers should be made to pay.

The Minister for Works: You know you cannot do that.

Mr. SMITH: I do not think the individual ratepayer who has suffered at the hands of the Water Supply Department should be compelled to pay for the mistakes of that department, and as I am given to understand that the Bill is intended to cover up one or two such mistakes, I intend to oppose it, or at any rate I shall oppose it until I have the assurance of the Minister that that is not so. I can inform the House of an instance where an officer of the department, Mr. Lawson, the engineer, without giving any notice to the occupant or to the owner of the property, deliberately selected as a site for a sewer hole, a spot 18 feet from the back door of some premises. It was quite contrary to the wishes of the owner of the property that the sewer hole was put down there. It is still there, and it is a nuisance to the occupier of the property.

Hon. P. Collier: The department had to pay £50 compensation for that.

Mr. SMITH: But £50 did not compensate the owner of the property.

Hon. P. Collier: That happened in my time. I told the engineer that he had no right to do it, and that it was ridiculous to run the sewer through the back yards of 30 houses and then place the manhole within 18 feet of a back door. The engineer's only explanation was that he would have had to put the main down two or three feet deeper, and that he would have had to put it in the roadway.

The Minister for Works: The case was heard before Mr. Canning.

Mr. SMITH: And it took Mr. Canning five months to arrive at a decision. What we want to know now is the nature of the omissions referred to by the Minister. If the object of the Bill is to validate a purely formal omission I shall not oppose it. With regard to the sewer hole to which I have referred, it is ten feet deep, and it is a great nuisance to the occupants of the premises, and naturally has depreciated the value of the property.

The Minister for Works: Mr. Canning did not say so.

Mr. SMITH: The matter should have been dealt with in a businesslike way, instead of which an autocratic attitude was adopted, and the individual was forced to proceed against the department in the local court. After protracted litigation, extending as I have said over a period of five months, the magistrate awarded him £50, a totally inadequate recompense for the annoyance of having had a sewer placed at his back door. A way out of the difficulty would have been for the Government to resume the property and then offer it for sale.

Hon. P. Collier: Sewer and all.

Mr. SMITH: Then the party who bought it would know the real value of it. Instead of which the department preferred to adopt the attitude of annoying a peaceful citizen

Hon. P. Collier: A peaceful citizen!

The Minister for Works: Do you know the lady?

Mr. SMITH: No matter who the people are, they have their rights, and it is our duty to protect them against such acts. It is not fair for the House to pass legislation of this kind to cover up the bungling of the department.

Hon. P. Collier: I do not think this Bill will affect that particular case.

Mr. SMITH: Until I have some definite information I will oppose the Bill.

Mr. PILKINGTON (Perth) [5.56]: I intend to oppose the second reading of this Bill on the very simple ground that it is in a form in which no Bill should be introduced to this House. It asks this House to legislate retrospectively in reference to rights which have arisen, and it asks this House to do so without stating the fact upon which that legislation is required. Any legislation which affects existing rights is necessarily of a very drastic character. The legislature can rarely be justified in leaving its province of legislating to deal with those rights which have properly become subjects for the courts of the country. If such legislation is undertaken, then it should only be undertaken with the greatest care. The facts and reasons should be stated, and the particular right which is being affected should be set out in plain words so that there may be no mistake as to what is being done. At the present time this House is in the dark; I am in the dark and hon. members must be in the dark except for such information as the Minister has given us as to who is affected. I do not know anything about the particular work referred to, or whether there are any rights, but it looks as if there must be rights which will be affected by this legislation. We do not know what those rights are, we do not know who is affected, and we do not know whether it is proper and just that those rights should be dealt with by this legislature instead of by the courts. The Bill has been presented to us in a form which, I submit, is most objectionable. If a person has been injured by the exercise of rights supposed to have been held by a department, and if the safeguarding sections of the Act have not been followed, and the injured person has the right to claim damages or compensation against the Government, and it is desired to take away that right, it should only be taken away by legislation of the most specific character. Legislation of that kind is open to strong objection; it means one of three great departments of government interfering with one of the other three great departments of government; stepping out of its ordinary work to another sphere. It is objectionable. If it is right that it should

be done it should be done in the plainest language so that it may be shown what the right is that is being interfered with, who the person is whose right is being interfered with, and the reason why that right is being interfered with. All we know from a perusal of the Bill is that apparently certain claims have arisen against the Government, and that by this Bill these claims are to be wiped out. In doing this we are expected to act blindly. Even the Minister for Works has not told us whose rights these are, or how or in what manner they have arisen. Without knowing the particular facts of every particular case it is impossible for this House to act other than blindly. These facts, if we are to pass legislation concerning them, should form a part of the Bill, either in the preamble or by way of a schedule. These are my objections to the measure. It does appear from the wording of the Bill that it goes further than it is really intended to go. It appears to me to apply to any future failure to comply with the safeguarding clauses of the Act, if such future failure has application to a work heretofore undertaken. That is an objection merely to the form of the Bill, and is a very subsidiary one. In its present form the measure is retrospective, and interferes with rights which have already arisen, and that being so, it does not state specifically what the rights are, and what the facts are exactly which justify such retrospective legislation.

Mr. VERYARD (Leederville) [6.3]: I hope before this Bill is passed hon. members will listen to the story I have to tell them. It seems to me to be possible that whilst the Minister in seeking to pass this Bill through so as to justify certain omissions on the part of an officer of his department, he may do a serious injury to at least one of my constituents.

Hon. P. Collier: That would be serious.

Mr. VERYARD: The case I have to mention is well known to the Minister as any rate, and I hope he will agree to an amendment to exclude at least this individual from the operations of the measure. I have no desire to refer solely to this one case, but to include in my remarks all other people who may be concerned. In this particular case a great injustice has been done. According to the story told by Mr. Falconer, the beginning of the trouble dates back some 2½ years when the department sent employees to take possession of his premises, without giving any intimation beforehand of their intention to do so, and during the absence of the owner. The first thing these men did was to pull down the fences, fowl yards, and other structures, such as they could lay their hands on. This gentleman waited upon the department on the following morning, and protested so vigorously that for several days the work was not proceeded with. In the course of a few days the work of destruction as well as construction was gone on with. A pit or sludge hole was put down on the premises within 18 feet of the kitchen door. It was a large hole, 10ft. deep and 8ft. 6in. in width. The protests of the person were still ignored by the department. He made inquiries from the department from time to time, and at last became so persistent that he was told that his only course was to go to law. At the time owing to his purse being limited in size he was unable to take this course, but eventually notwithstanding his financial position, and still getting no satisfaction from the department, he notified them that he would take proceedings for an injunction restraining them from going on with the work, and for damages for the injury done to his property. He was then informed by an officer of the department that they would not stop their proceedings if necessary until the action reached the Privy Council. I do not think it was within the province of any officer of the department to make such a threat. The owner, however, took the case into court, and in due course the magistrate visited the scene with the inspectors. After five months had elapsed he gave his verdict. This verdict gave the claimant damages for injury done to his property to the extent of £50, but gave him no judgment in regard to the nuisance aspect of the case. No injunction was granted, because the magistrate held there was no nuisance. The owner of the property was surprised to learn that there was no nuisance when the sludge hole was opened up. Some time afterwards he found out that a few hours prior to the inspection, and during it, the department had men employed in sluicing the drain, and that, consequently, there was no nuisance at the time of the inspection. One can scarcely believe that officers of the department would lend themselves to such an act. It is a very mean attitude for the Government to take up to protect themselves in this way.

The Minister for Works: Who vouches for that?

Mr. VERYARD: I am only giving the story as it was told to me by Mr. Falconer. I only desire to draw the attention of the House to this case, and others of a similar kind which may have arisen, and hope that hon. members will give it some consideration and insist that justice is done to this person. Everyone will admit that these sludge holes are more or less of a nuisance, apart altogether from the fact that they are in the way. This hole was placed within 18ft. of the kitchen door, notwithstanding the fact that running along the edge of the backyard of this property is a right of way, and what is even more singular that this right of way contains a drain pipe which has been brought up to be emptied into this sludge hole. Why the hole could not have been placed in the right of way and the pipes laid into it, is perhaps, only known to the department. I have it from Mr. Falconer, however, that when the leader of the Opposition was visiting the place he asked the engineer why he had not placed this sludge hole in the right of way. The reply was that it cost something like 20s. a foot more to place it there. For a matter of a few pounds, therefore, all this man's troubles have been caused, and a small saving effected to the department. I hope the Minister will do something in this particular case. If there are other cases of the

kind I trust that either the Bill will be thrown out, or justice done to these people.

Hon. W. C. ANGWIN (North-East Fremantle) [6.10]: It is my intention to support this Bill. A measure of this kind which deals only with a formal matter cannot do a great deal of injury to anyone. The Minister in introducing it said that it merely dealt with a formal matter. As far as I can gather from the discussion and the measure itself, certain advertisements are inserted in the public Press in regard to sewerage works.

The Minister for Works: The "Government Gazette" and the "West Australian."

Hon. W. C. ANGWIN: On one occasion, however, this advertisement was not inserted by one of the officers concerned. The fact, however, would not have made any difference at all if it had not been admitted. The case mentioned by the member for Leederville (Mr. Veryard) is not affected at all by this Bill. Whether a manhole is put in someone's yard or in the right of way is purely a matter of compensation. In all probability the same claim would lie if the formal proceedings had been carried out. I know it is rather disadvantageous to have these manholes put upon one's land, and I have already felt the effect of this method to the extent of about £20. A manhole has, however, to be placed somewhere, and it should be in the most convenient place for the carrying out of the work. If compensation is necessary the owner can make his claim. It is surely not the intention of the House, because some officer failed to carry out some very formal proceedings, that every person who liked should apply to the Court for compensation if they could not get it otherwise, and put the Government to the expense of a legal action. I gather that in this instance the order of the Governor-in-Council was not put through in the ordinary way, and was not published in the proper manner.

The Minister for Works: That is what I understand.

Mr. Pilkington: You have only heard one side, and cannot hear the other side here.

Hon. P. Collier: Surely neither the Minister nor his officers would make a misstatement on a point like that.

Hon. W. C. ANGWIN: If this was a Bill brought down for the purpose of relieving the Government of some responsibility with regard to the payment of damages in connection with work which had been carried out without any notification whatever, and the property of people was affected, it would be a totally different matter, but this is only a matter in which an officer of the department neglected to comply with——

Hon. F. E. S. Willmott (Honorary Minister): A technicality.

Hon. W. C. ANGWIN: A technicality in respect to having published in the "Government Gazette" the consent of the Governor-in-Council. If it had been published no one would have ever seen it in the "Government Gazette." It has been the practice in this House for years, ever since responsible Government, to introduce such Bills and make them retrospective.

Mr. Draper: A very bad practice.

Hon. W. C. ANGWIN: This is the first occasion upon which any objection has been raised when only a formal matter is dealt with. Ministers have often introduced Bills to validate the payment of rates because some local authority has failed to carry out the formal procedure provided in the Roads Act or the Municipalities Act.

The Minister for Works: We have to do it almost every year.

Hon. W. C. ANGWIN: Surely hon. members will not say that such a Bill should not be made retrospective until they have ascertained from every one of the ratepayers concerned what objection they have to it. Year after year we have had Bills of this description brought down, and no objection has been raised. This particular Bill is only introduced to cover up a formal omission and the House should accept it.

Sitting suspended from 6.15 to 7.30 p.m.

Mr. DRAPER (West Perth) [7.30]: The member for North-East Fremantle said that it had been the practice of the House to make legislation retrospective. Perhaps I am stating too broadly what I understood him to say, but there cannot be any maxim for Parliament which it is more necessary to observe than the maxim that we should not make legislation retrospective except under exceptional circumstances, and those exceptional circumstances ought to be laid clearly before the House by the Minister who asks the House to pass the Bill. I go further and support the member for Perth, who says that the exceptional circumstances ought to be stated in the preamble to the Bill. The Minister for Works should not take my remarks as in any way directed against himself—I am afraid he has rather a tendency to do that—but I do desire to enter a protest against what is becoming the practice of Government departments, namely, when they make a mistake in carrying out any Act which confers privileges on the Government they think all they have to do is to go to their Minister and get him, by hook or by crook, to get an Act passed by this House and another place which exonerates the Minister whom it affects from the responsibilities for the mistakes of the department and which the department has imposed upon them. I only give this as an instance of what takes place. A year or so ago in this House, and in another Parliament, a Bill to amend the Industries Assistance Act was brought down, and I believe went through this House in a very short space of time—I doubt whether many members had read it—and if the Act had become law in the shape in which it passed this House—I hope members will not think I am personal in what I say—it really would have been a disgrace to a democratic Government. Under the original Industries Assistance Act, the department obtained certain securities if they complied with the provisions of Act, which were very simple. They did not take those precautions, they did not comply with the Act, which may have been owing to the stress of business or to exceptional circumstances. They were unable at

the time to comply, but it would have been a simple thing to have complied with the Act. Two years afterwards, when in the meantime other people had advanced money on the property, and obtained security over it, this Bill was brought down, when rendered valid what the department had done and conferred a primary security on the department from the commencement, even against those who subsequently advanced money. It was altered in another place, where perhaps they had more time than this House to consider the measure. I mention that to show the danger in relying on what a department may bring before the Minister to get passed in this House. It seems to me that that is what has happened in this case. We do not even know when this mistake occurred. So far as I am aware, from information which I have obtained in the House, it may have been last week, it may have been a year, or it may have been two years ago.

The Minister for Works: I gave you the date of the advertisement.

Mr. DRAPER: It may have been in any portion of the metropolitan area. If the Minister had told us why it was required and told us the mistake which had occurred and when it occurred, and the names of the parties prejudiced, we should have been in a position to judge whether we should validate the action of the Government or not. It may have been a simple mistake by which no person was prejudiced. But on the other hand, when we look at Sections 19 to 23 of the principal Act, we find that under those sections plans must be prepared by the department, advertisements inserted in the "Government Gazette," and the plans should be open to inspection, the object being to give any person interested an opportunity to object if such person thinks fit.

The Minister for Works: Everything was carried out excepting the Order-in-Council.

Mr. DRAPER: We may know that now, but we did not know when the Minister introduced the Bill. I would remind the House, and this point was touched on by the member for Perth, that legislation—Acts of Parliament—speak from the present time. I am not speaking from now, but Acts of Parliament always speak from the present time, so that if anything happened a year hence the Act of Parliament would be prospective and not retrospective. Supposing therefore that a mistake was made two and a half years ago which we are asked to validate, there may have been another mistake which was committed by the department six months ago, and if the House passes the Bill in its present form it will not only make good and valid the mistake of two and a half years ago, but it will also make good and valid the mistake made six months ago, of which the House knows absolutely nothing.

Mr. Pilkington: And perhaps fifty more cases.

Mr. DRAPER: That emphasises the necessity for full explanation; why it is necessary to pass a Bill of this nature, and also to insert in the preamble of the Bill or the schedule those people who are affected and the extent to which they are affected. If that had been done there would have been no objection to the Bill, and unless the Minister is prepared to amend the Bill (he can state so when he replies, so that the House may fully understand what we are passing when we render valid any mistake of a department) I consider it may duty to vote against the second reading.

Mr. TEESDALE (Roebourne) [7.40]: Whatever detail the Minister for Works omitted from his speech when introducing this Bill, I think he has certainly done his best since, and shown there is nothing very serious about the matter. He has distinctly told the House that this is purely formal. There have been learned dissertations on the rights and wrongs of individuals, and a fearful lot of stress has been placed on the matter, which to my mind is not applicable. But one thing has been stated, that the Minister tried to validate a grievance of a constituent of the member for Leederville. I do not think he is going to do anything of the kind. He distinctly tells us that the object of the Bill is a formal one. It appears there have been a lot of annoying and irritating proceedings from time to time caused by a certain neglect on the part of officers, and surely if the Minister, in the interests of the public, wants to rectify these omissions and protect the public against these prosecutions or claims, it is right for him to do so, and for us to support him in doing so. I do not think there is any very dire conspiracy on the part of the Minister for Works. I do not think anyone can bring anything very serious against the Minister.

Hon. P. Collier: You do not know the Minister.

Mr. TEESDALE: I do not think he is doing anything but protecting the public, of which he is one. I do not see any reason why members should not support the Bill, which is in the interests of the public. He finds this legislation is necessary to protect the public from irritating claims and therefore he brings this Bill forward. I hope the House will aid him and not irritate him, and I for one—I may be doing a wrong thing—shall support the Minister in carrying the second reading of this Bill.

Mr. PICKERING (Sussex) [7.43]: It has been said that one can drive a coach and four through an Act of Parliament, but it should be avoided if it is possible, and I should like to know from the Minister whether it is possible to confine the Bill to the one act to which he refers, or whether it will be applicable to other cases.

Mr. Pilkington: It will cover them all.

Mr. PICKERING: If it covers other actions taken by the Public Works Department——

The Minister for Works: Not the Public Works Department.

Mr. PICKERING: Well, the Water Supply and Sewerage Department. I think the House will not be justified in passing a measure the extent of which they do not know. I hope the Minister when he replies will be able to explain, and very clearly, the limits of the measure which he has placed before the House.

The MINISTER FOR WORKS (Hon. W. J. George—Murray-Wellington—in reply) [7.45]: If no one else wishes to speak—and I am disappointed that more members have

not addressed themselves to the Bill—I shall reply. I can assure the House that it was with no intention of discourtesy that I refrained from taking up more of its time than I did in my opening speech on this measure. I cut my remarks short because the matter appeared to me one on which there was very little to say. I did not wish to delay hon. members with a harangue consisting of platitudes having nothing to do with the case. I tell hon. members now what I told them in my opening speech, that the Bill is a formal Bill. The Crown Solicitor tells me—I am not a lawyer—that it is a formal Bill rendered necessary in order to validate certain omissions which certain officers of the Water Supply Department incurred some years ago, when, I think, the present leader of the Opposition was Minister for Water Supply, Sewerage, and Drainage. Those officers did everything except one thing. They advertised what they were going to do, and they served notices upon the people affected of what they were going to do, but they did not go through the purely formal process of obtaining Ex. Co. approval over the signature of the Governor-in-Council. That is how the matter is represented to me. I know no more of it than that, nor can I get more information on it, because I am told those are all the facts.

Mr. Draper: Who is affected by the Bill?

The MINISTER FOR WORKS: So far as I know and am informed by the officers of the department, only one person is affected by the measure and that is the lady whom the member for Leederville (Mr. Veryard) does not know but whose case he has been advocating this evening.

Hon. P. Collier: But the Bill affects the whole area.

The MINISTER FOR WORKS: I dare say it does affect the whole area, but that is the only person I know of who has made a claim, or who has any idea of making a claim. The lady took the matter to a lawyer, who took the case to court. The case was heard by Mr. Canning, the local court magistrate, who is a lawyer.

Mr. Draper: Then the case is settled.

The MINISTER FOR WORKS: No, it is not settled, because it has been brought up this evening. It never will be settled unless this Bill is passed.

Hon. P. Collier: That is a fatal admission. You have given the show away.

The MINISTER FOR WORKS: Mr. Canning, in giving judgment on the claim put forward by this lady—and I will directly show the kind of lady she is—said the following:—

> If a mandatory injunction were granted, the department would be compelled to pull up all the work, obtain the authorisation of the Governor, and then replace it, at a cost exceeding £400. This would be of no benefit at all to plaintiff, and would be a wicked waste of money. It was established in evidence that the department had saved £150, and several householders from £20 to £30 each, in the cost of connections by placing the sewer where it was. He (Mr. Canning) was satisfied that the injury to the plaintiff's rights was small, and could be estimated and adequately compensated in money. It would, under the circumstances, be distinctly oppressive to the defendant to grant an injunction. Referring to the alleged annoyance caused by the rush of water through the sewer when it was swilled out from a manhole some considerable distance away, Mr. Canning remarked that this arose from Mrs. Falconer's imagination. The sewer was swilled during his visit, and, even with the concrete top of the manhole off, he could not distinguish anything which would be annoying or disturbing. He considered that if he awarded the plaintiff £50, he would be amply compensated for any injury sustained by him through the actions of the department. Judgment for that sum was given, and costs against the department allowed.

I ask the House to take this as being my word in connection with the matter: if I had the slightest idea, or suspicion, or hint, that this Bill was to do anyone out of his or her rights, I would have thrown the Bill into the incinerator before introducing it here. So far as I know, the course of events was as follows: the difficulties of the department were placed before the Crown Solicitor and he advised that this was the proper way to deal with them. The department are not aware of any other person who is thinking, or has thought, of putting in a claim, and who would be barred by this Bill. Of course there may be openings for any number of claims for aught I know, but the people who are meditating the making of those claims would certainly not be so foolish as to publish their intention through this House The duty of the Minister is to protect the State.

Mr. Draper: But not solely to protect the department.

The MINISTER FOR WORKS: But it is to protect the interests of the State

Mr. Teesdale: But you say there may be many other claims.

The MINISTER FOR WORKS: The imagination of lawyers could no doubt bring forward any number of claims. I have stated the facts as far as I know them. The member for West Perth (Mr. Draper) said that when a Government department made a mistake they regarded it as one of their privileges to obtain the passing of an Act exonerating the Crown from consequences. I do not know whether that is so or not. The member for West Perth knows more about such matters than I do, because those matters are part of his professional experience. I know that if one makes a mistake and injures another person, and if one is an honest man, one makes that injury right. In my opinion, the same rule should apply to Governments. If the House does not wish to assist the department by passing the Bill, let hon. members say so. To me, personally, that makes no difference. Matters will simply go on as they are. As regards the lady of whom the member for Leederville has spoken, she and her husband sent in a claim against the department for a couple of white leghorn hens,

15s.; and, in addition to that, they claimed 30s. for the eggs which these fowls might have laid. They also put in a claim for "one strong Muscovy drake." What that bird may have had to do with the non-production of eggs I do not know; but there, at any rate, was the claim. Although the case has been tried by Mr. Canning, the department are being simply pestered and worried by this lady. Although she has been told by her own lawyer that she can go no further, she will not pay her rates, and she is practically claiming an annuity from the department. If hon. members care to promote that kind of thing, let them do so. I cannot grumble at their decision. But unless the House supports the Minister, when he is honestly convinced that he should be supported, in a matter of this sort, how can hon. members expect any kind of decent government? There are minutes from the present leader of the Opposition and from the member for Northam on the file dealing with this matter. If hon. members do not want the Bill, let it be thrown out.

Mr. Draper: Will the Minister assure the House that this is the only case concerned?

The MINISTER FOR WORKS: I have told the hon. member what I know.

Mr. Draper: But you do not give any assurance.

The MINISTER FOR WORKS: The hon. member is a lawyer, and can beat me at that sort of game. He sees points where I do not see them. I have given the House my assurance

Mr. Draper: I have asked you to give the House your assurance that this is the only case.

The MINISTER FOR WORKS: I assure the House that it is the only case of which I have knowledge. There may be other cases, but they have not been made known to the department. The department do not know of any other case. I wish also to put this aspect of the matter to the House. I have not made the slightest attempt to deny the fact that an officer of the Water Supply Departmen failed to do what he should have done in regard to the Executive Council approval to which I have already referred. I speak as a man who knows the work the officer had to do; and I say that, by taking the course he did, he saved other ratepayers in that district, and also this particular ratepayer, sums ranging from £25 to £40 per dwelling. There is the position. If hon. members do not like to accept the statement I have made, they can refuse to pass the Bill. Had I known that it would be necessary to speak at length on this measure, I would have done so in my opening remarks. However, I do not want to talk at length on a case when I know it is fair and honest.

Question put and passed.

Bill read a second time.

In Committee

Mr. Stubbs in the Chair; the Minister for Works in charge of the Bill.

Clause 1—agreed to.

Clause 2—Non-compliance with sections 19-23 of Water Supply, Sewerage, and Drainage Act not to render construction or extension of sewerage works illegal:

Mr. DRAPER: If the Minister for Works will only take what I suggest in the spirit in which it is offered, there will be no necessity for heat in the debate. My objection to the clause is that it is much wider in its scope than is really necessary for the purpose which the Minister seeks to effect. The omission referred to happened two and a half years ago, and if the Minister would restrict the clause to that omission, I would not raise any opposition to it. What is required in order to make the clause effective is to strike out the word "heretofore" in the sixth line and then a little further along to add the words "a certain date" so as to provide that the construction or extension undertaken on a certain date should not be deemed to be illegal. I therefore move an amendment—

"That in line 6 the word 'heretofore' be struck out."

Mr. SMITH: I assure the Minister for Works that I had no intention of jeering at him as he accused me of doing.

The Minister for Works: You did nothing else.

Mr. SMITH: I am trying to protect the ratepayers from any injury which may be done to them. I agree with the suggested amendment of the member for West Perth and think that it will meet the position. All sorts of things which the department may have done illegally will be validated by this clause if it is passed as it stands.

Hon. W. C. ANGWIN: The hon. member for West Perth is afraid that some other person may come along and prefer a claim against the Government, but we have been assured by the Minister that the only thing he wants to validate is a technical error on the part of an officer of the department.

Mr. Draper: Suppose another mistake had occurred six months ago, and of which the Minister knew nothing at the present time?

Hon. W. C. ANGWIN: It is the general practice of officers of the department to tell Ministers of all mistakes that occur.

Mr. Smith: Suppose plans had not been lodged.

Hon. W. C. ANGWIN: That is not probable.

Mr. Smith: This clause then would validate such an action.

Hon. W. C. ANGWIN: We know only too well that there are many people who avail themselves of errors of this nature for the purpose of getting what they can out of the Government, and we know, too, that the Government only too often goes down. We have been assured by the Minister that the object is to validate only the error which has been referred to, and we should be satisfied with that assurance. If we cannot accept the word of the Minister on a matter of this kind, then we should get rid of him.

Mr. STEWART: The intention of the Government is clearly explained in the clause, and it has been amplified by the Minister. The object, it is plain, is only to remedy a defect, and I do not think the flimsy arguments which have been advanced to-night need weigh with members. What the Minister asks in the Bill is reasonable, and I am inclined to agree that

there are not likely to be any claims lodged for compensation as the result of a technical error. If there were any suspicion that the Minister were otherwise than sincere I should be the first to condemn the Bill. I think the interests of all will be amply protected if we pass the clause as it stands.

Mr. DRAPER: I have not the slightest intention of casting any slur upon the integrity of the Minister for Works. I merely desire to point out that the Bill goes further than is necessary, that it is not desirable to pass a measure which may validate something about which not even the Minister himself knows anything. The Minister could easily fix a date up to which he requires validation. If he will do this there will be an end to it for my part.

The MINISTER FOR WORKS: I will show the hon. member some of the difficulties in the way of fixing a date. The date must necessarily cover the completion of the work. Some of the sewerage works comprised in the Bill may require additions, and in any case I cannot say the exact date on which they were finished. If the hon. member wishes to fix a date, I suggest he fixes it at 31st December, 1916. I think the works concerned in the omissions were probably finished by that date. It is unpleasant to have to come to the House and say that some official has not done his duty, and it is even more unpleasant when the officer responsible is at the Front, 11,000 miles away. The departmental officials have given the information which in turn I have given to the Committee. The date named will probably cover all the works contemplated by the Bill.

Hon. P. COLLIER: I was pleased to hear the member for West Perth (Mr. Draper) say that he had no intention of casting any slur on the Minister for Works, because had the hon. member occupied a seat in the House during more recent years he would have had an opportunity of observing that the Minister himself, then a private member, was scrupulously particular in refraining from casting slurs on those who occupied the Treasury bench during that period. I am afraid hon. members do not appreciate the difficult situation in which the Minister finds himself. First of all, this sort of omission occurred at a time when the present Minister was not at the department. It occurred in 1915, when I was there myself. It is well known that in no circumstances could a mistake of this sort have occurred under the administration of the present Minister for Works. The Minister therefore is called upon to take up the defence of a position for which he is not responsible. Again, another difficulty has been presented in that the member for West Perth suggests that the Bill should be confined specifically to this particular area and the particular time. Thus, if the Minister adopts the suggestion of the member for West Perth he will find the operation of the Bill confined entirely to the small area which the member for Loederville (Mr. Veryard) desires to exempt. Thus it is impossible for the Minister to agree to the suggestion of the member for West Perth and that of the member for Loederville as well. The one member desires to confine the Bill to the case of Mr. Faulkner, while the other member desires to exempt that particuar good constituent of his from the operations of the Bill. How can the Minister comply with both suggestions? I do not see any objection to the amendment of the member for West Perth. If the Minister assures the Committee that it is only intended to cover this particular area and this particular time, what objection can there be to saying so in the Bill itself? If there is no other case involved there should be no objection to having it set out clearly in the Bill. It is true that the Bill will validate any act of a similar character of omission committed by the department at any time since the Act of 1909 came into force. I do not think that is desirable. The department may discover that only last week they omitted to comply with some important provision of the Act, and the Committee, without any knowledge of that particular case, will have made good the omission on the part of the department. Again, the Committee are not in possession of sufficient information to enable us to fix a date. It would be altogether wrong to go guessing as to the proper date to be fixed. However, the Minister could overcome the difficulty in this way: All these reticulation areas are numbered, and so we could confine the operations of the Bill to area number so and so. The Committee would then know that they have validated only acts of omission in this particular area. I think it is a perfectly reasonable request that we should not give the department a clean sheet for the whole of the nine years during which the Act has been in force. We may be able to meet the objection of the member for Loederville later on by adding to the clause a proviso to the effect that the clause shall not apply to the particular case he has in mind.

Amendment put and passed.

Mr. DRAPER: The suggestion of the Leader of the Opposition would undoubtedly make the Bill very much clearer than it will be if we merely insert a date. Seeing that the Leader of the Opposition knows so much more about the workings of the department than I do, if he will agree to frame an amendment on the lines indicated I will support it. In the meantime I formally move an amendment—

> "That after 'drainage' in line eight, the words 'undertaken prior to 31st December, 1916' be inserted."

Hon. W. C. ANGWIN: I am very much surprised at the Minister bringing down a Bill in the form we have before us, and then going back 12 or 14 months. I thought the Minister had given the Bill some consideration, but he now says he cannot state when these works will be completed.

The Minister for Works: I cannot say to-night when they will be completed.

Hon. W. C. ANGWIN: Possibly another Bill will have to be brought down later when one Bill would do the lot. There is nothing in the measure to be afraid of, so far as depriving the public of any damages to which they may be entitled is concerned. There may, however, be a possibility of the Department being looked upon as trespassers because they have started work upon a property without the necessary authority being given in accordance with the Act. I regret that the Minister did not stick to the Bill. As it would be ridiculous to go back to the year 1916 when we have no information with regard to it, I move a further amendment—

"That the figures '1916' be struck out and '1917' inserted in lieu."

Hon. P. COLLIER: The Minister should indicate what his attitude is in regard to these amendments, but he does not appear to have any fixed opinion at all in regard to the Bill. He is, in fact, discourteous to the Committee in his handling of the measure, in that he says we can do what we like with it, and that it has nothing to do with him. That is not the kind of attitude a Minister should adopt. In order that he may have an opportunity of looking into the Bill, I move—

"That progress be reported."

The MINISTER FOR WORKS: I oppose that as there is a motion before the Chair.

The CHAIRMAN: I rule that the hon. member is in order in moving his motion.

The PREMIER: I submit that an hon. member cannot at the conclusion of a speech move that progress be reported. He must move it without debate. We should be put right on this point.

The CHAIRMAN: On looking up the precedents of the House, and the notes left by my predecessor, I find that a motion, "That progress be reported" must be put without debate. The notes do not say when such a motion shall be put, but it can be moved at any time. I hold that the member for Boulder is in order in moving his motion, and will therefore put it.

Motion (progress) put and a division taken with the following result:—

Ayes	16
Noes	23
Majority against ..	7

Ayes	
Mr. Angelo	Mr. Pickering
Mr. Angwin	Mr. Pilkington
Mr. Chesson	Mr. Rocke
Mr. Collier	Mr. Troy
Mr. Draper	Mr. Walker
Mr. Lutey	Mr. Willcock
Mr. Maley	Mr. Green
Mr. Money	(*Teller.*)
Mr. Munsie	

Noes.	
Mr. Broun	Mr. Nairn
Mr. Brown	Mr. H. Robinson
Mr. Davies	Mr. R. T. Robinson
Mr. Durack	Mr. Smith
Mr. George	Mr. Stewart
Mr. Griffiths	Mr. Teesdale
Mr. Harrison	Mr. Thomson
Mr. Hickmott	Mr. Underwood
Mr. Hudson	Mr. Veryard
Mr. Johnston	Mr. Willmott
Mr. Lefroy	Mr. Hardwick
Mr. Mullany	(*Teller.*)

Motion thus negatived.

The MINISTER FOR WORKS: As far as the two amendments are concerned, it is immaterial to me whether the Committee accept December, 1916, or December, 1917. All I am anxious to do is to try to put matters on a fair basis. In carrying out any kind of work there may be omissions that have not at present come to light. I have asked the officials of the department to inform me if there are any further claims, but there may be some other claims which have not come to light.

Hon. T. WALKER: The Committee will be justified in hestitating to proceed further when the Minister says it is immaterial to him whether the Committee accept 1916 or 1917.

The Minister for Works: I am speaking personally.

Hon. T. WALKER: The Minister must know that he cannot speak in any other capacity than as a Minister when he is in charge of a measure. The responsibility remains with him. He cannot shuffle out of the responsibility. The Minister says that his officers tell him that there may be other claims; that there may be any number of cases that the Bill will affect, but he knows of none, and he asks the Committee to vote with that information. The Minister must take the Chamber into his confidence and supply the information to allow of an accurate judgment being arrived at.

The Minister for Works: I have given all the information I have.

Hon. T. WALKER: But the Minister has changed his ground, and says there may be other cases of which he knows nothing.

The Minister for Works: I told the hon. member the department have no knowledge of any other cases.

Hon. T. WALKER: But in the next moment the Minister admits that there may be other cases. We may be taking away the rights of people from the lack of information. The Minister says personally he likes 1917, but that he has no objection to 1916. The scope of the Bill is nothing to him, and this is the Government with business acumen.

The Minister for Mines: Which do you support, 1916 or 1917?

Hon. T. WALKER: How can I tell when the Minister does not know? I cannot possibly look into the books of the department; it is pure guesswork, and I object to being a party to pass a measure in the dark.

The PREMIER: It is not unusual for amendments to be moved in clauses, or for the Government to accept amendments. The Minister for Works thought fit to accept the insertion of the words "31st December, 1916." The member for North-East Fremantle suggested "1917" in place of "1916."

Hon. P. Collier: You are supporting the member for West Perth, and the Minister for Works is supporting the member for North-East Fremantle.

The PREMIER: I trust the Committee will support the Minister in accepting the amendment of the member for West Perth.

Hon. P. Collier: The Premier is under a misapprehension. The Minister for Works said he preferred "1917."

The PREMIER: I think hon. members opposite sometimes rather excite the Minister for Works.

Hon. P. Collier: The Minister prefers "1917," but he will vote for "1916."

Hon. W. C. ANGWIN: The Premier's remarks are surprising, more especially as the hon. gentleman has been in the Chamber all the evening. I believe in the Bill as printed. The Minister for Works endeavoured to show that the mistake to be rectified did not occur under his administration. The Bill is brought forward to defeat possible claims based on mere technicalities. In these days of economy the Government cannot afford to fight groundless claims. By introducing the Bill the Government have claimed that it is needed for the protection of the State. Now the Government, through the mouth of the Premier, have really admitted that the Bill is not required.

The Premier: The error occurred some years back.

Hon. W. C. ANGWIN: But the Minister has said that other errors may have occurred since. Realising that the Government do not know what they want, I have already moved progress, and I now ask for leave to withdraw my amendment.

Amendment (Hon. W. C. Angwin's) by leave withdrawn.

Amendment (Mr. Draper's) put and passed; the clause as amended, agreed to.

Title—agreed to.

Bill reported with amendments.

BILL—CURATOR OF INTESTATE ESTATES.

Second Reading.

Debate resumed from the 29th January.

Hon. T. WALKER (Kanowna) [9.11]: I entertain not the slightest doubt that this measure was prompted by good intentions. The select committee who last year inquired into the management and working of the Curator's office did good service to the State, and their recommendations to some extent have been adopted in this measure. At the same time, the Bill contains other innovations, concerning which we may have very serious doubts. I question whether some of the difficulties pointed out by the select committee will be remedied or met by the Bill as it now stands. One serious matter which strikes me at the outset is that whenever the Curator finds it necessary to administer an estate which has no liquid assets to help him on his way, he has in each particular instance, apparently, to go to the Treasurer and ask for an advance. Now we all have had some experience of going to the Treasurer and laying a case before him and then getting an advance, small or great, with all the red tape formalities which generally exist between two branches of the Government service. We find that the financial provisions of the measure make its working somewhat difficult and perhaps—shall I say?—inconsistent. The advance is to be made, and from the moment of the advance interest is to be paid to the Treasurer to the satisfaction of the Treasurer, notwithstanding that the Treasurer at the same time may have the use of hundreds—I was going to say thousands—of pounds from other estates which have been, immediately on collection, paid over to the Treasury; and there is no interest, no compensation whatsoever, allowed to the Curator's office for his work to enable him to operate at a profit. That might be only a small matter, however. It is the innovations affecting time-honoured traditions of British law that I have more particularly to point out. The measure makes provision for the Curator at any time, without the formality of any judicial process, approaching a judge of the Supreme Court and obtaining, if need be from day to day, such orders as the judge may see fit to give—thus putting practically the onus of the administration of the estate which has come into the Curator's hands upon the judge. Not only can the Curator go, as is provided now, by judicial process and ask for directions, but he can obtain the judge's opinion by a purely ex parte method. For this Bill provides that there shall be no right to any other party interested to appear before the judge. I am not permitted on the second reading to debate clauses, but as this Clause 13 particularly affects the principle of the measure I am bound to draw attention to it—

> The Curator may, without judicial proceedings take the opinion or obtain the direction of the Court upon any question, whether of law or of fact, arising under this Act, or in the course of his duties.

And the Bill goes on to provide that—

> Any such question shall be submitted to a Judge in such manner and at such time as he may direct, and shall be accompanied by such statement of facts, documents, and other information as he may require; and the Curator or any one authorised by him shall, if the Judge so desires, attend upon him at such time and place as the Judge may appoint.

It goes further and says—

> The Judge may, before giving his opinion or direction require the attendance of or communication with any person interested in the estate, but no such person shall have a right to be heard unless the Judge otherwise directs.

I submit that is a complete reversion of the procedure we have had in our law upon the subject. Section 70 of our Administration Act, which the Bill before the House is supposed to amend, gives the correct procedure

and the person interested as creditor, next of kin, or otherwise in the real or personal estate of any deceased person which the Curator has been ordered to collect may, on the neglect or the refusal of the Curator to do any act in relation to the administration of such estate or on his doing or threatening to do any act in breach of his duty with reference to the said estate, apply to the Court for an order directing the Curator to do or abstain from doing such act. Hon. members will perceive that the very antithesis of that provision is made in the Bill which is supposed to be an amendment of the section I have quoted. Instead of any person interested having a right to call the Curator before the Judge, the Curator has the right to go behind the backs of all parties, approach the Judge, get his opinion or his direction, and unless there be a special order from the Judge, none of the interested parties can be heard. This would be star chamber work. I question whether any of the judges would like to undertake that duty, for, practically, we place upon them the duty of administering the estates of deceased persons. I do not see what convenience it is to have the Curator practically running to a judge every few minutes—for so he can do under the amending measure—to get merely the opinion of the judge as to what he should do in relation to any difficulties arising under the Act or any difficulties arising in the performance of his usual duties. It is too much to expect our judges to take that position. Besides it is a reversion of the old principles of our English law. But there is more than that. In the new Bill we give a class of duties to the Curator that are covered and provided for by separate Acts of Parliament already. For instance we have a Master in Lunacy, and his duties and his work are provided for in the Lunacy Act. The Master in Lunacy takes charge and administers the estates of lunatics, and it is no light duty. It is not of the simple character perhaps of an ordinary estate left by a deceased person. That duty is not removed from the Master in Lunacy by the proposed measure. He still takes charge of the estates of lunatics, but there may be the estates of lunatics handed over to the Curator. We have then the phenomenon of two sets of officers covered by two different Acts of Parliament in different branches of the public service, undertaking precisely the same class of duty. This must lead to confusion and difficulty. It is not simple, clear, nor wise administration, but this Bill if it becomes law may find estates of some lunatics in the hands of the Curator and others in the hands of the Master in Lunacy, and conflicts may arise between these two departments. We should have some responsibility centered somewhere, but in this way we distribute responsibility, and we never know where to look for redress when wrongs arise. Not only have we this division of duty for the same class of estates, but the Curator of Intestates Estates is given a position now provided for by another and separate Act of Parliament under another set of officers. The Curator may not only be given portion of the work done now by the Master in Lunacy but the Work done in the Prisons Department. Prisoners' estates provided for in another Act of Parliament can be given over to the Curator. I think this must inevitably lead to confusion. I fancy I see running through the measure a desire to make the Curator a sort of prototype of a public trustee. But this is not the way to do it. The select committee which sat upon this question found that the duties put upon the Curator at the time of their investigation, at so insignificant a salary, scarcely that of a first-class clerk, were more than the officer could carry out. But since the committee held their investigation, Parliament in its wisdom has seen fit to administer all of the estates of deceased soldiers free of cost, and it has put that duty upon the office of the Curator of Intestate Estates. True, other clerks have been engaged. True, there has been an effort to keep pace with the work, but the responsibility has immensely increased, and the volume of work is very much greater than it was at the time of the committee's investigation. But when we add these other responsibilities, what is to become of that officer, and what is to become of the department? It is making it—I was going to use a vulgar phrase, a mongrel department—a department, the direct purpose of which cannot be declared, and whilst it makes the Curator a sort of public trustee, the measure shears him of all his powers by enabling him to finance all these estates at the pure will of the Treasury. At all evens he has no say in this matter. And whilst on the one hand he is an officer of the Supreme Court, on the other hand he is a Treasury officer, and we take from him all the powers of acting with that independence of a corporation sole which this measure is supposed to give him. Not only that, but whilst we have him as such an officer, he does not by any means have the responsibility of a public trustee. He cannot be reached in the same way as, for instance, the Trustee Company in Perth can be reached. There is only one way in which we can get at him, and that is by proving against him gross negligence. But he has neither the money to play with nor to deal with in the performance of his great and manifold duties, nor has he the responsibilities for the destination or the use of that money, for immediately it is collected, with interest added, it is paid to the Treasury. It may be paid to the Treasury in large sums, and got out in dribs and drabs to finance some small estates. There is a lack of definiteness and an abundance of confusion in the measure which I would like to see cleared up. If there is to be a public trustee, let us have a measure for the appointment of a public trustee. The Act as passed in New South Wales is not a difficult one. It is exceedingly brief and it has performed great public duties, and only last year, I believe the profit and loss account showed that a profit of £641 had been made in that year. We cannot bring out a balance sheet such as is done in New South Wales, with the Curator of Intestate Estates acting as it is proposed he shall act under the measure before us, nor will it be possible to give that office any credit for success in business matters, nor shall we be able to establish responsibility with the Curator. These are defects which have made us hesitate to support

the measure as it stands. It would be wiser for the Government to introduce a Public Trustee Bill or give the full powers of a Public Trustee to the Curator. Just one little detail that I would like to mention. Even with all the powers which are provided to enable the Curator to go to a judge for the purpose of getting an opinion and direction, yet in other directions there has been a lack of provision to get rid of red-tape and difficulties. Under the measure as it now stands, the Curator in the administration of an estate has to get practically four orders from the court. He has, first of all, to get an order to collect. Then he has to get an order if it is required to sell. Then he has to get an order to administer; and, after he has all these orders, before he can distribute a single penny, he has to get an order for distribution. The new measure will a little simplify that, but I question whether now, as provided in the new measure, any order from the judge gives the curator full responsibility and power to act from the beginning to the winding up of an estate that comes into his hands. I do not think that provision for distribution is made in the measure, and there are to my mind imperfections of that kind, want of full consideration and complete symmetry, from beginning to end of the measure.

Mr. DRAPER (West Perth) [9.31]: I think the Bill, in the main, remedies a difficulty which has eixsted here a good number of years. No doubt the limited powers of the Curator are unsatisfactory to the community. He had power under the old Act merely to collect, except in some unimportant cases, and he could not obtain letters of administration, which gave him full power over the estate, until three months after the death if the estate did not exceed £100 in value; or, if the value was more than £100, he could not obtain an order to administer until six months had elapsed. Thus, members will readily understand the annoyance the creditors, or even beneficiaries of the estate, were put to under the old law. The Bill gives the Curator power to obtain an order to collect and to administer, and of course that will avoid the delays which have previously occurred. Under the old Act the powers of the Curator to collect were practically limited to where there was no representative or executor, or administrator of the estate, or where the property was deteriorating and there was no one to look after it. The Bill goes a little further, because it also empowers the Curator to act, when he has been appointed by will to act, in the administration of an estate. I am not objecting to that power, but I would ask the Attorney General to bear in mind that, by inserting that particular power in the Bill, he has rather altered the complexion of it, and that the old formalities, which were a sufficient safeguard possibly when the Curator merely dealt with small matters, are no longer of any value when the Curator has power to act as executor under a will. In effect the Curator becomes a public trustee. I am not objecting to that. But if the Curator becomes a public trustee, then surely he must, like every other trustee, be liable if he makes any mistake, or is negligent in the administration of his trust. That is where, I think, the Attorney General has overlooked the necessary consequences of giving the Curator this additional power; because we find at the end of the Bill that the Curator, who is a corporation, is not liable for anything except gross negligence. That is a provision which has been retained from the old Administration Act. But is that fair? Because it must be borne in mind that by the Bill itself the charges for administering an estate are to be exactly the same as the charges made by the W.A. Trustee Co. who carry on business for a profit. We have five per cent. charged for collection and also 2½ per cent, on the corpus. That is what the W.A. Trustee Co. charge. Of course, if anything goes wrong, the W.A. Trustee Co. are liable for any negligence, but under the Bill the Curator, if anything goes wrong, is not responsible, unless he is guilty of gross negligence, notwithstanding that he is making exactly the same charge and the same profit as a public company carrying on business in the ordinary way. I think it is an oversight in the Bill. The Attorney General will also appreciate my difficulty in this respect: that, as a private, member, I cannot, at the Committee stage, move a new clause which would make the Consolidated Revenue liable for any deficiency which there might be by reason of the Curator's negligence. I am subject to what the Speaker may say, but it appears to me that, in order to insert a clause of that nature at the Committee stage, it will be necessary that a member of the Government move it.

Hon. T. Walker: You would have to get a Message.

Mr. DRAPER: I do not know whether a Message would be necessary, but I am convinced that I cannot move such a new clause at the Committee stage. Unless, therefore, I can get the Attorney General to give me an assurance that he will move a clause of that nature at the Committee stage, I will be compelled to vote against the second reading, which I do not desire to do. Because it is only reasonable that, where a concern is carried on in the same way as a private business, and where the same charges are to be made, the person or corporation earning that money must be liable in the same way as any ordinary individual would be for negligence. That is the principal defect in the Bill. I would recommend to the Attorney General a section taken from the Public Trustee Act of New South Wales, which I have here.

The Attorney General: What is the number of the clause in the Bill?

Mr. DRAPER: Clause 6, paragraph (g).

The Attorney General: I would rather see paragraph (g) go out. That would meet your objection.

Mr. DRAPER: My objection would not then have the same force. The Curator is made a corporation, and he is a corporation without a farthing of capital. So, in the ordinary course of events, if anything goes wrong, the unfortunate person who is entitled to the estate, in whole or in part, has no remedy against the Curator. Therefore, if the character of the Curator is altered and he is really treated as a public trustee, it is neces-

sary to insert some clause by which those damaged by his negligence shall have some recourse; and the only recourse is that the Consolidated Revenue should make up the deficiency, as is provided in the New South Wales Act. There is another matter to which I would draw the attention of the Attorney General: I cannot help thinking that Clause 13 has crept in without notice, on the scissors and paste system. It has in the margin "Q. 15, No. 14," which I presume refers to the Queensland Act. It is an extraordinary clause. I think it is unnecessary. Under the old Administration Act provision is made by which the Curator may apply to the court upon a summons, an inexpensive way of proceeding in chambers. Even with Section 72 repealed, there is still Section 43 of the Act in force, which enables him to go to the court in Chambers. Then we have the Trustee Act, by which one can go to the court by petition, and we have the Supreme Court rules. The words that strike me as being most peculiar are these: "Without judicial proceedings." If one goes to a judge without judicial proceedings one goes to a judge as a lawyer, and not as a judge at all. In such circumstances one can only go to a judge as a lawyer practising in the State, and ask him his opinion. I doubt very much whether the judges themselves would approve of such proceedings. The principal blemish, I think, is the insertion of those words "Without judicial proceedings." There may be some reason for it; if so I should like to hear it. At first sight the clause appears to me to be unnecessary and inadvisable. I cannot understand how one can go to a judge in his capacity as judge unless one is taking some judicial proceedings. Even an ex parte application in chambers constitutes judicial proceedings. To go before a judge and ask him for advise is not consistent with the duties of a judge and, from a public point of view, is very inadvisable.

The ATTORNEY GENERAL (Hon. R. T. Robinson—Canning—in reply) [9.43]: I welcome the criticisms of hon. members, particularly the legal members, because I am sure they are all anxious, as I am, to have a Bill relating to the office and duties of Curator which will work satisfactorily in the public interests. It has been a matter of common knowledge that the complaints levied at the Curator's office or delays and dilatoriness have, in most instances, arisen from the fault, not of that officer but of the system. Some 18 months ago this House appointed a select committee to inquire into the working of the Curators office. This committee took evidence and furnished a very exhaustive report. I wonder why the member for North Perth (Mr. Smith), who took such an interest in that committee, and was in fact the chairman of it, does not appear to concern himself about the Bill. The findings of the committee were generally to the effect that the Curator was a good enough officer but that the system was hampered in every direction by lack of power, by the delays in the handling of estates, and that the bulk of the estates which went through the office averaged under £50 apiece, and the final recommendation was that some prompt, quick, and cheap means without any judicial proceedings should be found by which small estates, which alone fall into the Curator's hands, should have that despatch which people want for them. The member for Kanowna (Hon. T. Walker) raised the point in regard to advances from the Treasury. Under the present system we find that there were estates which could not be realised on although there was some property. The Curator has no power to borrow money. He may want some proceedings taken, but his answer is that he has no funds and cannot take them. He has been hampered in that way. It is provided in this Bill that where the Curator has estates, instead of his being allowed to go where he pleases to raise money, he should go to the Treasurer and get the necessary money. The Treasury already receives moneys from the Curator that he may happen to have on hand, and all that the Curator would need to do would be to make out a good case to the Treasury to get an advance of, say, £10 or £15 for some small estate. That is not a matter of red tape, and the Curator would have no difficulty after proving that the value of an estate was £75, in getting an advance of £10. This provision was inserted at the request of the select committee. The member for West Perth (Mr. Draper), as well as the member for Kanowna, has taken exception to Clause 13, if I am right, Mr. Speaker, in referring to clauses of the Bill.

Mr. SPEAKER: The hon. member may refer to clauses in that way, but must not read clause after clause.

The ATTORNEY GENERAL: If hon. members will refer to Section 72 of the Administration Act they will find that whilst it gives power to the next-of-kin, beneficiaries or anyone else to approach the court, it does not say that the Curator may go to the judge. Hon. members may say that there is power for the Curator to do this under the Trustee Act, but judges have repeatedly intimated to the Curator that he has no power to go before them, with the result that in many cases difficulty has arisen.

Mr. Draper: The Trustee Act may not be convenient, but what about the Supreme Court rules?

The ATTORNEY GENERAL: The point has been raised and disputed.

Hon. T. Walker: The Curator often goes before the Judge now.

The ATTORNEY GENERAL: The Curator is not an administrator but a mere collector, and judges have said that mere collectors have no power under the Trustee Act or the rules of court to go before them and state cases. He does not deal with large sums, but with small estates. I have been asked by the committee to devise some means of cheapening the procedure and making it quicker and Clause 13 gives a direct entry to the judge without any judicial proceedings or summonses or other legal methods. When the Curator is before the judge, His Honour can say whether the case is one in which the Curator must notify certain beneficiaries or other persons, say whether

there should be an affidavit, or give any directions he pleases, under the paragraph following that read by the member for Kanowna. In the case of the Curator merely wanting a direction on some matter which will not greatly affect anyone, he may go to the judge and the judge will direct him. This course would be simple and effective. If the judge thinks that some person is affected he will give the necessary direction for that party or beneficiary being brought before him. With this explanation I think the clause will appear in a different light to hon. members. If we were dealing with estates running into hundreds of thousands of pounds, the clause would be very objectionable, because we should then want everyone brought before the court by the most formal of legal procedure, but when we are dealing with only small estates, I think the clause is all that could be desired.

Mr. Draper: Strike out the words "judicial proceedings" and put in the words "ex parte."

The ATTORNEY GENERAL: I would not mind doing that. It is as broad as it is long. There is no particular virtue in the words "without judicial proceedings." This is simply my endeavour to carry out the request of the Committee, and cheapen the procedure by getting away from all legal paraphernalia. The Parliamentary draftsman, with whom I was in close touch in the framing of this Bill, suggested to me this Queensland section, which reads—

> The public Curator may without judicial proceedings take the opinion or obtain the direction of the court upon any question, whether of law or of fact, arising under this Act or in the course of his duties. Any such question shall be submitted to a judge in such manner and at such time as he may direct, and shall be accompanied by such statement of facts, documents, and other information as he may require; and the public curator or any one authorised by him shall, if the judge so desires, attend upon him at such time and place as the judge may apppint. The judge may before giving his opinion or direction, require the attendance of, or communication with any person interested in the estate as trustee or beneficiary, but no such person shall have a right to be heard unless the judge otherwise directs. The judge shall give his opinion or direction to the public curator, and the public curator shall act in accordance with such opinion or direction, and shall upon the request in writing of any such interested person, communicate to him the effect of such opinion or direction. The duty of advising and directing upon any such questions shall be assigned by the Chief Justice to a particular judge of the court: provided that in the absence or upon the request of such judge any other judge may act for such judge for the purposes of this subsection.

The Queensland legislation goes further than we do. I would be just as glad as the member for West Perth to have the amendment suggested by him. The member for Kanowna drew attention to the responsible duties assigned to the Curator under the section which gives the court power to appoint a committee of any lunatic's estate or the Curator of a prisoner's estate. These duties are carried out by the Master of the Court, and the following clause also deals with the Master in Lunacy. In my second reading speech I said that although these clauses were in the Bill they were clauses to which I was not particularly wedded, because they savoured to me somewhat of making the Curator a public trustee. But the Bill has come to me in this way from the Parliamentary draftsman, and is based on the recommendations of the select committee, and I thought I would allow the Bill to come before the House in the form in which it reached me, and give hon. members a chance of coming to some conclusion regarding it. I do not particularly like these clauses myself. The Parliamentary draftsman had in mind two objects which I was continually impressing upon him, to wind up estates cheaply and quickly. It has been suggested to me that the powers contained in these clauses dealing, say, with lunatics and prisoners' estates, would only be exercised by the court or judge in the direction of the Curator in simple cases, such as estates worth £40 or £50, or something under £100. They would not dream of sending to the Curator a lunatic's estate which was a valuable one, and would, in the ordinary course, go to the Master. Hon. members may ask why we should have two separate people dealing with the one matter, but I do not mind very much whether this remains in the Bill or not. I do not want hon. members to think that I am committed by this Bill, or by any expression of opinion, to what may be called a public trustee office. I have told the House that I am now considering the question. One requires a good deal of information on such a subject before expressing a definite opinion upon it. If I were to express such an opinion, the House would want to know what consideration I have given to the question, and what reasons there are for and against the establishment of a public trustee office. At the present time I have not all the information on which to form a judgment; and I do not want this measure to encroach in any way on what I may call a public trustee Bill. I assure hon. members that this measure simplifies and quickens and cheapens the methods of the Curator. Finally as regards the objections of the member for Kanowna (Hon. T. Walker). The hon. member said that this measure was filled with red tape, inasmuch as four orders were necessary to collect, sell, administer, and distribute.

Hon. T. Walker: No. That was so under the old Act. I say now that an advance has been made, but that I question whether the Curator has been given power to distribute.

The ATTORNEY GENERAL: It is quite true that even under this Bill the court in particular instances has power to limit its orders. It has also power to give a wide order. The whole power of the Bill, down to the making of the rules under it, is under the control of the judges. The judges have power to make the rules and to make the orders.

Mr. Draper: Or to revoke orders.

The ATTORNEY GENERAL: Yes. There is a clause under which an order to collect and administer may be given, and there is also a definition clause which gives, on an order to collect and administer, the same powers as an administrator has after obtaining letters of administration. That is to say, the Curator, having obtained such an order, will collect, administer, and finish up, and file accounts. The member for West Perth (Mr. Draper) was discussing the mater of fees. Those fees have given me a great deal of thought. At present they are one per cent. and four per cent., while, as the member for West Perth has pointed out, the fees of trustee companies are two and a-half per cent. and five per cent. But one must bear in mind the averages of amounts of estates. I suppose the average estate administered by trustee companies would run into something over £1,000. It is well known, on the other hand, that the average of the estates going to the Curator would be very low, seeing that only estates where there are no next-of-kin, and where executors there are none, and where nobody bothers his head, that go into the Curator's office. So, although the estates are numerous, they can be only small. They are usually estates of a stranger dying here, or of a man coming off a steamer, or of a sailor. It must always be borne in mind that if executors or administrators or next-of-kin can be found, they can take over the estate instantly. Thus the Curator is necessarily administering only very small estates. Five per cent. on a small estate is a very small recompense. I have even been considering whether I should not ask for an amendment there, so as to increase that fee in special cases. To give an illustration—a man wanders away into the bush and dies, or a shepherd is found dead after many days; then some person has to be employed to inquire after his effects, and to ascertain whether there is money in his pockets or in his house. In such cases the Curator often finds it very difficult to get officers to undertake the trip. Suppose the estate turns out to be worth £50; then five per cent. would represent only £2 10s. to pay the Curator and to pay the man who goes out to make the investigation. Frequently the man who has to travel into the bush and search for property wants a larger fee than £2 10s. Five per cent. sounds a lot in an ordinary way; but taken on these small estates it is, after all, a very small thing. In my second reading speech I did not mention paragraph "G" of Clause 32; but it is a paragraph which of itself savours of the public trustee, and I would not be averse to its going out of the clause, since my object is only to perfect and simplify the working of the Curator's office. With the excision of that paragraph, I understand, the objection of the member for West Perth to Clause 32 will disappear. In criticising Clause 32 the hon. member said that it made a very great difference—that here was a trustee who was liable only for gross negligence. That is true; but such has been the law of Western Australia for the last 15 years. It is not an innovation. It is taken from the existing law. In fact, Clause 32 re-enacts Section 78 of the Administration Act of 1903; and that particular section is taken verbatim from the New South Wales Act of 1898.

Mr. Draper: Under the old Act there were not the same powers, however.

The ATTORNEY GENERAL: That is true; but what I desire to point out is that if we excise from the Bill the provision dealing with wills—which I realise might lead some silly person to appoint as his executor the Curator of Intestate Estates, when something other than gross negligence might be shown; and to this extent I agree with the member for West Perth—that objection disappears. In effect, Clause 32 says that the Curator shall be personally answerable only for what is known as gross negligence. That has been the rule, and it has worked well in Western Australia, and I have never heard any complaint about it. The question has been raised, however, as to the liability of the Crown. The liability of the Crown does not appear——

Mr. Draper: The Crown is not liable at all.

The ATTORNEY GENERAL: Nor do I know that any particular case has arisen in Western Australia where owing to the negligence of an officer loss has been caused in the Curator's office. I do not know where a claim has been made that would be other than a claim in respect of gross negligence. The select committee investigated the dealings of a particular officer regarding some jewellery, and I think the officer was eventually exonerated. In all the years of administration under the old Statute, which had a provision similar to that now under discussion, no fault has been found. Therefore I think that if I agree to the excision of paragraph "G" relating to wills, Clause 32 then has no objectionable feature.

Mr. Draper: What about Clauses 21 and 22?

The ATTORNEY GENERAL: I am willing to discuss in detail, in Committee, whether it is a wise thing to hold those clauses in the Bill. But before concluding I wish to remind hon. members that the principal aim of the Bill is the simplification, the quickening up, and the cheapening of the Curator's work in small estates. I therefore ask hon members to treat the Bill as non-contentious, but as a Bill dealing with somewhat difficult questions, and to go into Committee and discuss the clauses in detail, when I shall be happy to afford hon. members any information I possess.

Question put and passed.

Bill read a second time.

In Committee.

Mr. Stubbs in the Chair; the Attorney General in charge of the Bill.

Clauses 1 to 5—agreed to.

[The Speaker resumed the Chair.]

Progress reported.

House adjourned at 10.17 p.m.