

Legislative Council

Thursday, the 9th November, 1961

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The PRESIDENT (The Hon. L. C. Diver) took the Chair at 11 a.m., and read prayers.

QUESTIONS ON NOTICE

TEACHERS ON BOND

Amendments to Regulations

1. The Hon. F. J. S. WISE (for The Hon. R. F. Hutchison) asked the Minister for Mines:

Will the amendments to the Education Act regulations relating to teachers on bond be introduced, as promised, before this session ends?

The Hon. A. F. GRIFFITH replied:

The regulations are now in course of preparation.

MARRIED WOMEN'S PROTECTION ACT

Amending Legislation

2. The Hon. R. THOMPSON (for The Hon. R. F. Hutchison) asked the Minister for Local Government:

Will a Bill to amend the Married Women's Protection Act be introduced this session as promised by him last session?

The Hon. L. A. LOGAN replied:
No.

HANSARD

Availability of Large Quantities, and Rate Charged

3. The Hon. F. J. S. WISE asked the Minister for Mines:

(1) Are private members entitled to order and obtain large quantities—say up to 5,000 proof copies—of complete individual issues of *Hansard*?

(2) If complete copies of *Hansard* have been and are available in large numbers to members what is the rate charged per copy or per hundred?

Time Limit on Ordering

(3) Is there a time limit within which members must order large numbers because of type holding or printing difficulties?

The Hon. A. F. GRIFFITH replied:

- (1) Yes.
- (2) Generally 1s. per copy.
- (3) Yes.

TAXES AND CHARGES

Increases

4. The Hon. R. THOMPSON (for The Hon. P. R. H. Lavery) asked the Minister for Mines:

Will the Minister please supply detailed information regarding taxes and charges imposed by the Government during its present term of office, as follows—

- (1) (a) What new taxes and charges have been imposed; and

- (b) from what date were they operative.
- (2) (a) What taxes and charges existing at the date of assumption of office in 1959, have been increased; and
- (b) what is the percentage increase in each case?

The Hon. A. F. GRIFFITH replied:

This question requires a good deal of research in order to obtain the information. I will endeavour to obtain the information required by the honourable member and supply it to him before the session ends.

KING RIVER ROAD

Straightening and Widening

5. The Hon. J. M. THOMSON asked the Minister for Mines:

In view of the tremendous increase in volume of heavy traffic due to rural development east and north-east of Albany—

- (1) What negotiations have been carried out in the matter of land resumptions required for enabling the straightening and widening of the King River Road from Albany Highway to point of intersection of the Borden and Kalgan River roads?
- (2) What, if any, negotiations require to be finalised?
- (3) Is it proposed to straighten and widen this section of the road in this year's road works programme?
- (4) If not, can any indication be given if, and when, this work is proposed to be carried out?

The Hon. A. F. GRIFFITH replied:

- (1) With the exception of a short section in the town council area, all land required for the improvement of this road has been resumed and negotiations with owners finalised.
- (2) Negotiations on the section in the town council area referred to in answer to No. 1 have reached the stage where formal resumption will be put in hand shortly.
- (3) It is proposed to reconstruct, widen, and improve the alignment of three miles of this road this year, commencing at the town council boundary.
- (4) Answered by No. (3).

PEEL INLET

Provision of Beacon Light on Cooper's Mill

6. The Hon. F. J. S. WISE (for The Hon. E. M. Davies) asked the Minister for Mines:

In view of the dredging of a channel at the Murray River entrance which will result in a greater number of tourists using the estuary, and in the interests of safety during night fishing there, will the Minister arrange for a beacon light, the maintenance of which would be arranged by the local residents at their own expense, to be installed on Cooper's Mill on the shore of Peel Inlet between the Serpentine and Murray rivers?

The Hon. A. F. GRIFFITH replied:

Similar requests to this have at times been received. It has not been found possible to provide the necessary funds and equipment for these installations.

QUESTION WITHOUT NOTICE

WORKERS' COMPENSATION ACT

Claims of Silicotic Miners Outside Three-year Limit

The Hon. E. M. HEENAN asked the Minister for Mines:

During my speech on the Address-in-Reply debate I made reference to the plight of silicotic miners who, through no fault of their own, are debarred from the payment of compensation because their claims were not submitted within three years of their having left the mine. During my speech the Minister for Mines interjected to the effect that he was giving this matter some further consideration. I now ask the Minister: Can he let me know whether he has had an opportunity to reach a conclusion on this matter?

The Hon. A. F. GRIFFITH replied:

A Bill to amend the Workers' Compensation Act was introduced last year, but the provisions contained therein were not made retrospective. I do not recall indicating that I would endeavour to do anything about the retrospectivity of the matter; because, when introducing the Bill, I recollect saying that it was difficult to bring down an amendment of such a nature because of the uncertainty of the extent of liability that would be involved in meeting these claims.

MINES REGULATION ACT AMENDMENT BILL

Third Reading

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

TOWN PLANNING AND DEVELOPMENT ACT AMENDMENT BILL

Second Reading

Debate resumed from the 8th November.

THE HON. F. J. S. WISE (North) [11.14 a.m.]: I regret that I was absent from the Chamber when this item was called on, because when I did leave I thought the two previous items had to be dealt with.

The Hon. A. F. Griffith: Those two items were postponed until a later stage in the sitting.

The Hon. F. J. S. WISE: I have had a chance to look at the Bill very closely. As the Minister said, it is designed to overcome the minor difficulties that have arisen as a consequence of the changed verbiage in the Local Government Act which affects shire councils and the like. The new Local Government Act, having discarded the words "road board" and substituted the words "shire council," has required certain changes which are merely machinery changes, and do not amount to very much.

The provisions in the Bill merely bring up to date the interlocking between the Local Government Act and the Town Planning and Development Act. There are several clauses in the Bill, however, which require more examination and more explanation because of the implications contained in them. I am not particularly concerned with the clause that deals with the building line, but I suggest to members who are interested in local governing bodies that they should make a close study of that clause. I take it, although the Minister did not give us the direct assurance, that there is no overriding principle involved in this clause, and that it has met with the approval of local governing bodies.

The Hon. L. A. Logan: They have been asking for it.

The Hon. F. J. S. WISE: If that is the situation and it merely makes the alteration to schedules, and if the other parts dovetail with the Local Government Act so that one Act is consistent with the other, there may not be any objection to the clause. However, if on the other hand there is the possibility of this changed wording giving local authorities a very definite overriding power, the clause will have to be given closer consideration. Whether that be the intent, or the purpose of the clause, I am not quite sure; I simply draw attention to it.

On clause 6 the Minister gave to the House considerable explanation in some detail; and, on the surface, it appears to do justice. It is designed to overcome anomalies and vexatious happenings that have occurred in the past in regard to the responsibility of subdividers sharing the cost of constructing roads. As the Minister explained, either the local governing body or a subdivider has this responsibility, whichever one is the first authority or entity responsible for the construction of the road.

I would point out that the construction of a road means construction according to the specifications of the local governing body, and means a road finished with a bitumen surface. The provision in the Bill is intended to overcome any disputation between the parties, if there are two subdividers, one trying to take advantage of the other; or a subdivider taking advantage of a local government's through road, developed road, or a road which happens to bisect property which is to be subdivided.

In the case of a subdivider—I will call him the initial subdivider—having his plan approved firstly by the Town Planning Board, I would point out that that is a long drawn-out experience for a subdivider, then ultimately to the local governing body, and then to spend or get the local authority to proceed with the spending of thousands of pounds on the construction of roads, in the case of a large subdivision.

Because of the terrain of the land, the initial subdivider may have an approach road abutting on to undeveloped land on one side of an entrance road, or on portion of the development of the estate. It has been the experience of many people that as a suburb progresses, the subdivider of property opposite land already subdivided will take advantage of the roads abutting on his property and pay nothing for them.

This clause in the Bill makes it possible where the local governing body has built the first road in an area for that local authority to have placed into a trust fund the sums which make up its contribution as assessed for part of the cost of the road. All that seems quite fair; it all seems to be quite reasonable.

I asked the Minister by interjection last night, because I had not been able to see the Bill for any length of time before he spoke, whether there was a time limit on such an arrangement; because it is conceivable that a person could own very valuable land in the city area and be called upon to pay for the cost of construction of roads when he subdivides his land. This provision can also affect the owners of property in suburban and outer suburban districts, and compel them to pay for the cost of roads which might have been laid down 20 years or more ago.

The Hon. L. A. Logan: Of course there is an appeal to the Minister.

The Hon. F. J. S. WISE: I am aware of that. In legislation of this kind it would be wise to soften the blows which fall on the Minister in charge of it. If the law can be made explicit on all occasions, so that appeals to Ministers can be avoided or lessened—whereby Ministers will not be regarded as sitting ducks or umpires to be shot at—Ministers of the Crown will then be able to adjudicate on more vexatious matters. That is the function of Ministers; they should not be regarded as authorities to whom owners can lodge appeals. That is putting the position of Ministers in the right perspective.

The Hon. G. C. MacKinnon: A Minister should not be the Minister as well as the prosecutor.

The Hon. F. J. S. WISE: Following that line of thought, one often hears that in making an appeal against the town planning authority to the Minister one is appealing from Caesar to Caesar. I do not wholly agree with that point of view, because with all their faults those who have been Ministers for Town Planning—including the present Minister—would not make any decision other than a direct and honourable decision, based on the facts presented to them.

The question is this: Is it right to put the Minister in the position I mentioned? In his extemporaneous remarks last evening at the conclusion of his summary of the Bill, the Minister said something to the effect that this was a matter which the Town Planning Board itself could not resolve.

The Hon. L. A. Logan: I said it was pretty difficult to define when liability began and when it ceased.

The Hon. F. J. S. WISE: He also said, in regard to liability, that that was something which was difficult for the board to handle. Another element of this matter upon which I would like a clear understanding is the definition of "abut." Does it mean the land fronting, and only land fronting, a road; or does it apply to where a dead-end road has been constructed by which means—and by that means only—ingress is provided to an adjoining area?

Many members know of places where blocks of land are difficult of access, but by deviation on another line of road—in short, by subdivision of another property—access is increased. If an owner of property, which is very difficult of access, takes advantage of roads already constructed right up to his boundary, should he not pay in the same manner as the owner of property which abuts or fronts the constructed roads? I think he should, but there is no provision in the Act to compel such an owner to pay unless we interpret the word "abut" to mean at the end of a constructed road. If it does not mean that, we should seriously consider, in order to have a firm definition, the addition of such meaning as I have proposed.

My main concern in this connection is the issue I raised initially; that is, this provision could be made to apply without a time limit to subdividers—who should be placed under an obligation by statute to pay into a fund—of highly valuable and important areas fronting a road which had been constructed many years ago, where the value of the road had been assessed by the local authority at a previous date and a contribution had been made.

Proposed section 28A (2) states—

- (a) where the portion of the road remains to be either constructed or surfaced or both after the date of the subdivision referred to in subsection (1) of this section by the subdivider, half of the actual cost thereof as estimated by the council of the municipality; or
- (b) where the portion of the road has been constructed and surfaced at the date of that subdivision, half of the cost thereof as assessed by the council of the municipality as at that date.

The proposed section states further that the subdivider shall, within 14 days of a written demand being made on him, pay half of the cost demanded. If we follow that clause through we will find in later paragraphs reference made to paying the council of the municipality half the cost of constructing and servicing a portion of a road on to which a lot fronts or abuts; and a charge is made by force of that provision on the land comprising the lot.

So in summing up the position which it is intended to alleviate, I hope we are not imposing a burden where no burden is intended by this legislation. I have raised this matter to provoke thought.

Another point I do not like is that contained in the third last clause of the Bill. It deals with the responsibility of a subdivider in connection with 10 per cent. which is the usual quota of land required to be vested in the Crown or the local governing body, as the case may be, for open space and to be the contribution of any subdivider.

The Hon. L. A. Logan: Only in a town planning scheme.

The Hon. F. J. S. WISE: Yes.

The Hon. H. K. Watson: It is confiscation.

The Hon. F. J. S. WISE: That one could be a very serious matter. We can imagine that at the tail end of a family estate—the last resources of a family after what I refer to as an iniquitous probate duty has been levied on the whole of the estate—some person is left with undeveloped land which may be anything from one acre to 100 acres or even more on the outskirts of the city. It may be suitable for T. M. Burke or some other company to subdivide.

The proposal in clause 9 of this Bill means that if, because of other acquisitions in this manner where 10 per cent. has been taken from estates for open spaces, 10 per cent. is not required from this particular estate, the difference between what is taken and 10 per cent. of the value shall be paid in cash.

Perhaps this estate has no cash at all, and the executor could be trying to realise on something to obtain some cash for those who are left behind. Of course it could be a development company; but I stress the point that it could impose a hardship and I think that somewhere in that clause—I have not had the opportunity to ascertain where—there should be a safeguard in the interests of such cases as I have mentioned so that until a certain percentage of the land is sold as subdivided land, there shall be no contribution at all. That is to say, would it not be fairer to stipulate that until, say, 50 per cent. of the subdivided land is sold, there shall not be an impost of this kind? I do not know what relative proportion is warranted.

The Hon. J. G. Hislop: You are referring to paragraph (a) on page 9?

The Hon. F. J. S. WISE: Yes. Paragraph (a) really recites what is to be done if 10 per cent. is considered to be not required, or if a certain area, because of the acquisitions or conditions or requirements having been satisfied before the particular subdivision, is not required. A cash payment is then to be made. It could be that in a near city area 10 per cent. would be required for breathing space because of the densely populated part nearby. I think that could be a tough one.

So my summing up of this Bill is that a much more earnest look is required at the provisions which could give a great advantage to an adjoining subdivider where a road merely abuts because it is a dead-end road. But I am concerned with the private subdivider rather than the local governing body—much more concerned.

It would be a dreadful thing to anticipate that, even in regard to a property in West Perth or East Perth or any other suburb, because of a remaking of a road at the time or near the time of a subdivision this provision could apply. There is no limit in this Bill as to when the charge may be raised, so that from my point of view there are three things which require very earnest consideration. One is, what is the meaning of "abut"? Does it mean something which merely fronts a road or something that abuts on to it at any point? Also I think we should study clause 9 because I feel that is the particular one about which Mr. Watson spoke. When a person gives something to the Crown he must pay stamp duty on the transfer. Although I do not always agree with Mr. Watson, I think he might have something there.

The Hon. H. K. Watson: I am sure I have.

The Hon. F. J. S. WISE: Those are my observations on this Bill at this stage.

THE HON. R. C. MATTISKE (Metropolitan) [11.38 a.m.]: Each year towards this period of the session certain Ministers come under fire because of putting legislation before us, but giving us insufficient time thoroughly to study it. I think this particular measure is within that category. Unfortunately this did not come before us until last night; and in the very short time available I, for one, have not been able to give it the consideration and conduct the research into it which I would have liked. But in that short time I have had fears similar to those just mentioned by Mr. Wise.

I feel that if the intention of this measure regarding subdividers is to make provision whereby the original subdivider in the future can claim half the cost of a road which adjoins another subdivision, then that provision is quite equitable and one which we should pass. But if it is going to be retrospective in its application, I do think it wants further very serious consideration, because persons who have owned land for a number of years and who have been paying rates on that land on the assumption that ultimately they will subdivide, but have made no provision for portion of the adjoining road, should have their interests protected.

However, any person from now on who may be interested in subdivision must bear in mind the possibility that he may be faced with half the cost of what I call the adjoining road.

So I hope the Minister in replying will give us further information on that point and that he will be able to assure us that this provision will not apply to subdivisions that have already taken place. If not, I would prefer to add a proviso after subclause (3) of clause 6; or, better still, insert a new subclause to the effect that the provision of subclauses (1), (2), and (3) will have no effect on subdivisions carried out up to the date of the commencement of this amending legislation. So, I earnestly implore the Minister to give this careful consideration and to advise us far more thoroughly when he is replying to the debate.

I also share Mr. Wise's fears regarding clause 9. This morning, in the little research I was able to carry out, I came across an instance concerning a subdivision in the Darling Range district where a subdivider was instructed by the town planning authority that he had to make 10 per cent. of his land available to the Darling Range local authority. When the negotiations had proceeded to the stage where he was about to pass over this 10 per cent. of the land, I understand the Darling Range authority said that it did not want it. It had no interest in the land whatever.

If such land is required for open space, for recreational purposes, or for other public uses, one can appreciate the necessity for a subdivider having to make a

voluntary contribution because he is in return going to enhance the value of the blocks he is subdividing. But if it is merely to be a fee for the privilege of being able to subdivide, I think it is entirely wrong in principle.

I know of another instance where a subdivider was told that he had to make a block of land available for a drainage sump. The block was valued at £900 but he readily made it available because it was going to improve the value of the rest of his land. But there was another case where the same subdivider had to make available a valuable block of land for a drainage sump and he also had to carry out certain other work concerning the construction of the sump to drain not only his own land in the immediate vicinity but land which had been previously subdivided by the State Housing Commission.

Unfortunately, I have not been able thoroughly to investigate all the aspects of these cases in the very meagre time available, but I have reason to believe the person who supplied me with that information. I feel sure there must be many other instances where injustice has been done in the past to subdividers; and if we pass clause 9 as it stands, we are going to leave the way open for more injustice in the future.

I think that any person who has an area of land and who desires to subdivide it for the purpose of deriving monetary gain, should have no argument against providing internal roads and certain other needs which, in the ultimate, will enhance the value of the blocks he will sell. But if the planning authority is going to be in a position to hold these people up for ransom, then I think the legislation is entirely wrong in principle.

Those two points do cause me a deal of concern; and at the moment I feel very strongly in favour of making some proviso or inserting a new subclause in clause 6 and voting against paragraph (b) of clause 9, unless the Minister can give us some assurances when he is replying to the debate.

THE HON. H. K. WATSON (Metropolitan) [11.45 a.m.]: I have no intention of airing my ignorance in regard to the Bill which arrived only last night. I have been preoccupied with other Bills and I have just not had the time to study it. But I think Mr. Wise and Mr. Mattiske have alerted the House sufficiently for us to suggest to the Minister that this Bill might well be deferred until next session.

The Hon. L. A. Logan: We cannot defer all of it.

The Hon. H. K. WATSON: The Government is deferring other legislation. According to this morning's paper a Bill relating to the height of buildings near Parliament House is to be deferred.

The Hon. L. A. Logan: We have not had a Bill.

The Hon. H. K. WATSON: Various other matters are being deferred, and I feel we should not just pass Bills blindly without knowing what is in them; or merely having a very sketchy description of what is in them, only to find upon studying them, as they have to be studied afterwards, and reading them according to their actual context, that they go much further than we were ever led to believe they would.

I would like the Minister to answer this for me—and I shall take an extreme case as an illustration: At the end of Hay Street is quite a large area of land, and at the eastern end of Adelaide Terrace there are some fairly large blocks of land. Assuming I bought those vacant blocks of land and subdivided them, is it suggested that I would be liable to pay a proportion of the cost in respect of Adelaide Terrace on the one hand and Hay Street on the other?

The Hon. L. A. Logan: No.

The Hon. G. C. MacKinnon: Plus 10 per cent. of the subdivision of the land.

The Hon. H. K. WATSON: I do not know whether this 10 per cent. applies to the subdivision of 100 acres or the subdivision of one acre. It is not apparent from a quick reading of the Bill. However, I would like to remind the House of what appears to be an unfortunate approach to all these matters by the town planning authority. It seems to me that the authority overlooks the fact that there is such a thing as the right of the subject; John Citizen still has some rights.

The Hon. N. E. Baxter: We hope.

The Hon. F. R. H. Lavery: Not many.

The Hon. H. K. WATSON: Sometimes we have a job to find them. I heard of a case the other day where the town planning authority, regardless of what its authority was, ordered a subdivider to set aside a certain strip of land for a certain purpose. It had absolutely no power under the Act to do that, and I think it is reasonable to assume that it knew it had no power; but that did not prevent it from giving it a try. In that case the aggrieved person promptly took out a writ against the town planning authority and it promptly ceased pursuing its order.

But people cannot be going off to the court every day just to protect their legal rights; and I do not think we should pass this legislation willy-nilly. As regards the extraction of the 10 per cent. from the subdivision of land, I have always expressed the view that inasmuch as the subdivider pays for the roads—true he makes his profit out of it, but in doing so he advantages the State generally; and there is such an individual as the Commissioner of Taxation who has quite an interest in the profit that he makes, and that in turn comes back, sometimes with interest,

through the Grants Commission—if 10 per cent. is to be taken from him, I see no reason why he should not be paid for it.

As Mr. Wise said this morning—and I am grateful to him for the concession—there is something in the protest which I made the other day; and the authorities are only adding insult to injury when they take 10 per cent. from the subdivider and, in addition, charge him stamp duty on the transfer. We have been clipping off 10 per cent. for reserves, playing fields, and so on—although I will admit that academically, from the viewpoint of public citizenship, it may be a good idea as part and parcel of the subdivision; because it is necessary not merely to have houses but also to have school sites, playing fields, and so on. But it is an entirely different proposition—in a case where it is found the 10 per cent. is running to seed and producing a surplus, and the land is not wanted—that its equivalent in cash should be taken just for the sake of taking it.

That seems to be the guiding principle behind this Bill—"Well, we don't want the land but it would be a pity to let you keep everything you own so we will take 10 per cent. in cash from you." I must confess that does not appeal to me as a fair and just proposition; and that is my reaction after a quick reading of this rather complicated Bill. I seriously ask the Minister to think about postponing it until next session so that we can have a careful and studious look at its contents.

THE HON. J. G. HISLOP (Metropolitan) [11.53 a.m.]: I must admit that there are certain portions of this Bill that I have not been able to read properly, particularly pages 3 and 4 and also page 8 where one has to chase through previous amendments to see what is required. Therefore I am afraid I am not in a position to talk about any of those provisions. However, there is a matter that interests me considerably, and both Mr. Wise and Mr. Watson gave this point a good deal of attention.

When the Minister introduced the Bill he made it quite clear that one of the things troubling the authorities was that if they took a certain percentage from a subdivision in order to form a park, there might conceivably be a number of small areas and they would never get an aggregate big enough to make a proper park. But then the Minister went on to say that that aspect had been examined and a doubt had been expressed as to the validity of such a provision in a town planning scheme under the present laws.

But this Bill does nothing towards providing that authority, because I cannot see anywhere in it where the Town Planning Commission has the right to say which portion of the land it shall have; all that it asks for is that 10 per cent. shall be set aside. So I do not think it is any better off by the introduction of this Bill

than it was previously. If members read the Bill they will find it states that a subdivider—

shall when subdividing or developing his land transfer to the responsible authority, if and when it so requires, so much of that land not exceeding the percentage that the area of land so set apart bears to the land in the scheme or a percentage of a tenth of his land whichever is the lesser.

There is nothing in the legislation to say that the Town Planning Commission can say to a particular subdivider, "This is the land we want to be set aside as part of an aggregate area for a park." So I do not think we are getting any nearer to the solution of our problem. We must also realise that by taking 10 per cent. of the land, or 10 per cent. of the actual value of the land, which I think it really amounts to in some cases, it is only a matter of increasing the cost of the land to the purchaser.

I have seen this coming ever since we had the original Royal Commission or Select Committee on town planning. I was fortunate enough to be a member of that committee of inquiry and I could see the difficulty at the time in regard to interference with the rights of the individual. I felt it was something which could create a good deal of concern not only in regard to the authority itself but also the individual citizens of the city.

I cannot see how we can get over it, and I cannot see where it breaks down. There is no doubt that if the commission feels that this legislation does not give it the right to form parks, it will not be long before Parliament is asked to allow the commission to decide which portion of the subdivided land it shall take in order to form a park; and that is the only reasonable way of forming a park. But is it the just way of proceeding with the matter?

This park, when it is set aside, is not going to be used only by those in the actual subdivision; it may be a park that will be used by a large number of people. Therefore it seems to me that when we are allowing the commission to raise loans in order to meet the cost, the question of contributions by the commission could be taken into account; and if that were so I think there would be a much more just means of providing the parks required.

We as a committee saw the difficulties that were arising in regard to betterment; and after weeks and weeks of discussing it with Miss Feilman and other town planning authorities we had to agree that we would give betterment away because nobody saw any way of handling it. We also very soon recognised that we would have to give deterioration away because we saw no way of really overcoming the problem and adequately compensating the individual.

I think we are reaching the stage in town planning where both Houses of Parliament need to have very definite ideas as to the real value of town planning authorities; and to me this Bill certainly does not seem to provide anything of value whatever. If we had been presented with a Bill which gave the commission the right to take certain portions of land in order to form a park of normal size there might have been something for this House to really get its teeth into and decide on the future planning of the outer parts of Perth. But I do not think this measure will help at all.

I am by no means decrying the action of the commission; but I would say to the Minister that I do not think any of us knows where he is going. I do not think even the commission itself knows where it is going. Just think where it will lead us if we give to the commission the right to say which portion of a subdivision it will have.

Only the other day I was discussing the subdivision of land with a private owner who had land adjacent to an area that was being put up for subdivision. The offer was that in return for the two areas being taken in together, a certain proportion of this person's land had to be given over. Of course, what happened was that the two best blocks in the subdivision were the ones which were regarded as the price of joining with the contiguous subdivision.

That makes it a very difficult business because it exceeds by a long way the 10 per cent. value of the land which the town planning authority would be faced with purchasing. So the problems that arise from this are very complicated indeed, and a lot more time should be given to the measure. I hate to say this but I do not think I have known one session when a town planning Bill has not come down in the last week of the session.

The Hon. H. C. Strickland: The last day, mostly.

The Hon. J. G. HISLOP: I cannot see any reason for this when we have a permanent board. I dislike voting against Government legislation—

The Hon. F. J. S. Wise: The interim order is involved in this.

The Hon. J. G. HISLOP: I know that must go through; it must be accepted. It is essential that there shall be no lapse by failing to continue the interim development order; and therefore this Bill must be accepted. In the Committee stage we might take the opportunity to alter that aspect, but I cannot see anything in clause 9 which provides for what the Minister says it does in relation to the small areas being taken in subdivisions and not providing an aggregation.

The Hon. F. J. S. Wise: You would agree that not all appeals should be put up to the Minister?

The Hon. J. G. HISLOP: Who would then deal with them?

The Hon. F. J. S. Wise: I don't think we should encourage appeals always to lie with the Minister.

The Hon. J. G. HISLOP: Be that as it may, I propose to vote for the Bill because I do not wish to disturb the work that is being done; but I would like an assurance later that clause 9 is workable and that it will do something to get the Minister over his problems.

THE HON. N. E. BAXTER (South) [12.3 p.m.]: In the short time we have had to consider this Bill I find that the principal clauses in the measure are clauses 6 and 9. I do not think it is fair to bring the Bill down at this stage of the session and ask that consideration be given to clauses 6 and 9 in so short a period. The provisions in the measure could affect a number of people; particularly under those clauses. We have had enough upsets and anomalies with town planning and regional development; it has given us all the headaches in the world.

I think it is unreasonable to expect us to agree to these clauses in the short time that is left to us in which to consider them. I am far from happy with those clauses, and I would like a little more time to give them consideration. Clause 6 has a great many provisions governing the responsibility of the subdivider, not only as to roads to be constructed in a new subdivision, but also as to roads that have been constructed in the past.

I do not think we are entirely justified where a person is a subdivider of land, or a road is constructed along subdivided land, to say that that person shall pay half the cost of that road. After all is said and done, the person concerned may have held the land for years; he may have paid rates and taxes on it for many years without having a road to use, and yet we find he is to be asked to pay half the cost of the road. I do not think that is just.

Clause 9 appears to me to be a steal. If a local authority has decided it has some scheme to set aside land for its own purposes, then the owner when subdividing must give the local authority 10 per cent. of the land, or a percentage of the land up to 10 per cent. if required; and if the local authority does not require the land then with the permission of the Town Planning Board the owner of the land can be made to pay for his own land. That is not good.

It goes further and refers to the valuation of that land. Subclause (2) of this clause provides that where an agreement cannot be arrived at on the value, an independent qualified valuer shall be

appointed, and if there is then no agreement the chief valuer of the Taxation Department of Western Australia shall assess what shall be the value.

How is the value of that land to be assessed? Is it to be the value of the land per acre on a non-subdivisional basis, or the value prepared on a subdivisional basis? There is a vast difference; and there is nothing in this Bill or in the Town Planning Act to lay down the values on which the Chief Valuer of the Taxation Department shall work. Say he works on the subdivisional value. The land concerned could, in relation to the rest of it, have a greater value. The owner could, after he has paid for the roads and after this land is taken off him, finish up with nothing at all for his land. That could be the situation in an extreme case. In any event, it could leave a big hole in his assets.

I think the Minister should give this matter consideration before going on with the Bill, to see what parts of it he would agree to delete, rather than lose the whole Bill. I am sure there are some parts of the Bill he wants to get through during this session, and it may be possible for him to draft the necessary amendments. I cannot see myself agreeing to the provisions contained in clauses 6 and 9 as they are placed before us.

THE HON. R. THOMPSON (West) [12.7 p.m.]: Like previous speakers, I, too, wish to indicate my objection to this Bill. Apart from anything else, we have not had time to study it. I consider this measure to be a godsend to the local authorities, and a nightmare to the landowners or subdividers. At the present time I know of a subdivision that is about to take place where there are 400 acres of land involved. The people who purchased this land approached the bank and got themselves heavily in debt; apart from which they have to pay a very high rate of interest to purchase the land.

If the local authority wishes to claim a percentage in cash it can do so; and I know that the local authority in question certainly does not want 40 acres of land in this area; which would constitute 10 per cent. of the area involved. I know of another subdivision which would come under the provisions of clause 6.

If clause 6 is accepted, the land of the person beyond this subdivision will increase in value tenfold if the roadways are constructed. Even though he derive the benefit of the construction of these roadways he would not have to contribute a penny towards the cost of their construction; and yet because of their construction he would become a wealthy man overnight; and at the expense of the people who had constructed the original roadway.

There are too many qualifications imposed on landowners under this provision. Not all landowners are wealthy people. I daresay most members know of land that is up for subdivision, but for the most part

it is not land on which a fortune can be made. There is a lot of land in the Cockburn electorate—that is, hundreds of acres of land—for sale, but there are no buyers for it at the moment. But if the subdivisions progress and people want to capitalise on their land then the local authorities will find this measure a godsend, because they could become very wealthy at the expense of the individual.

I do not intend to support clauses 6 or 9 of the Bill. I have not been able to study the other clauses because I have not had sufficient time. I would like to see the Bill deferred till next year.

THE HON. L. A. LOGAN (Midland—Minister for Town Planning) [12.13 p.m.]: Ever since I have been a member of this House the Minister for Town Planning has come in for more criticism than any other Minister.

The Hon. N. E. Baxter: We are not criticising you; we are criticising the Bill.

The Hon. L. A. LOGAN: When a Bill is criticised it means a Minister is being criticised, because no Minister brings down a Bill unless he wants it to be passed; and on this occasion the Minister wants this Bill to be passed. There has been some rather loose thinking on the ramifications of this matter, and I would like to know whose side certain members are on. Are they on the side of the fellow who wants to cash in, or the other fellow who has already paid?

I am at a loss to discover the attitude of some members on this. They appear to be concerned about the man who has already paid for the cost of the road having to share the benefits of that road with some new-comer who may purchase land in that area, perhaps on the same side of the road, and the value of whose land may be increased by the construction of that road even though he has not contributed to its construction.

Members have pointed out that a man may own land the value of which has increased considerably after a subdivision has taken place. But do not members think that the other fellow is entitled to pay a proportion of the cost of construction? I think it is only fair and just that he should.

I appreciate that it is late in the session, but I do not apologise for that at all. Because of the provision in clause 6 conferences have been held between the Local Government Department, the Crown Law Department, and the local authorities with a view to finding a workable solution. After this Bill was submitted to me it was sent to the local authorities to see whether it was acceptable to them.

The Hon. R. C. Mattiske: How long did they take to decide?

The Hon. L. A. LOGAN: They have been working on this for the past two or three months.

The Hon. R. C. Mattiske: And we are given one day!

The Hon. L. A. LOGAN: That is not quite fair. I put this up to a joint party meeting a month ago.

The Hon. F. R. H. Lavery: We cannot attend your party meetings.

The Hon. A. F. Griffith: You could come to our party meetings; it would do you good.

The Hon. F. J. S. Wise: You should have invited us earlier to listen to the explanation.

The Hon. F. R. H. Lavery: We do not know anything about it.

The Hon. L. A. LOGAN: It is tough to say that members do not know anything about it.

The Hon. F. R. H. Lavery: We are entitled to say that.

The Hon. L. A. LOGAN: I am not talking about members on the honourable member's side of the House.

The Hon. F. J. S. Wise: What do you think of the dead-end provision?

The Hon. L. A. LOGAN: The point is that if there is a block that abuts on the end of a road, the fellow at the other end must get some value out of it, and he would pay the cost of the land contiguous to it.

I appreciate there will still be anomalies, as it is not possible to legislate to cover every aspect. As regards subdivisions in Hay Street and Murray Street, they are something that will not come into the picture. I appreciate that no time limit has been imposed, but if the House likes to make provision for a 10-year period I shall be quite happy to accept it. That is something to which this House should give thought rather than that it should be a decision of the department.

I do not agree with Mr. Mattiske that the period decided upon should not be made retrospective, because these fellows will cash in on the situation as they have done in the past. I am of the opinion that Parliament is the correct authority to insert a time limit. It is important that this Bill be passed, because it continues the interim development order until 1962. As members know, the interim development order was passed by Parliament in order that it might cover the period up to the presentation of the Stephenson Plan. If the interim development order is not carried on until the plan is presented, chaos will result.

The Hon. H. C. Strickland: Whose plan will it be when it is presented? Will it still be Stephenson's?

The Hon. L. A. LOGAN: He is the author of it. However, at this stage I might say that the presentation of this plan has not been easy. The authority has been operating only since April, 1960; it was necessary to set up 27 local authorities

into five district committees; and it has been essential for the authority and the Town Planning Department to work in co-operation with these district committees in order to obtain agreement on all aspects of the plan before it was presented to the public or Parliament. What is the good of my bringing a plan here when three or four of the district committees are not in agreement with it?

I can assure members that the authority and the Town Planning Department have worked hard and consistently for many long hours in an endeavour to get the metropolitan region in accord with the plan before its presentation. I had hoped it would have been presented to Parliament before this, but members would appreciate the difficulties if they were aware of all the work that has gone into it.

With regard to clause 9, I am afraid members have not—and because of the time available I do not blame them—read it as it should be read. If members will refer to clause 9 they will see that it states, "Power of a responsible authority to provide that where it sets apart in a scheme . . ."

The scheme referred to is a town planning scheme under which a local authority, with the consent of all owners, takes all the land over for development, puts the roads through, and where possible gives the original owner back his piece of land; or, where this is not possible, the original owner is given alternative land. This is the sole occasion where the 10 per cent. will apply.

In a scheme such as I have outlined, it would not be reasonable, indiscriminately, to take 10 per cent. of a person's land; it is better that it be done this way whereby cash instead of land can be obtained. Under this provision it would be possible to have a decent recreation reserve in the centre of the scheme.

The Hon. F. J. S. Wise: You would need to write a definition of the word "scheme."

The Hon. L. A. LOGAN: Members must bear in mind that it is a town planning scheme. A subdivision is not called a scheme; and any action taken will be under the Town Planning Act. Therefore, it will be called a town planning scheme. An ordinary subdivision does not come into it. It has been accepted for many years that public open space shall comprise 10 per cent.

There are occasions when it is not desired that 10 per cent. be used for this purpose, and the Town Planning Department, or the board on that occasion, has to say, "We will take 10 per cent. of your land because it suits the requirement of the local authority." From the point of view of the department and the board, it is necessary to lay down something basic and adhere to it; and that is why the provision is in the Bill to enable the Minister to try to decide on the merits of the case.

I ask members to give further consideration to this Bill. I will not take the Committee stage until later this afternoon as I do not want to push through anything with which members are not in agreement. We have been looking for an answer in connection with roads and subdivisions for quite a long while. As I have said before, in my short period as Minister too many people have avoided paying the cost of roads in their subdivisions because somebody else has paid it for them. Those people have reaped the benefit, and we should not allow that state of affairs to continue.

If members can point to any anomalies in the wording of clause 6, I will be happy to consider the correction of them, as I am anxious to have legislation passed to cover what is required. I ask members to look again at clause 9 which deals with the 10 per cent. aspect. This, as far as I am concerned, applies only to the scheme of a local authority whereby, as I said before, all the land is taken over by a local authority and that land is developed, roads made, and each individual block, as far as possible, is handed back to the previous owner at the original cost of the block plus the cost of development of the scheme itself.

The Hon. F. R. H. Lavery: Is that your answer to paragraph (b)?

The Hon. L. A. LOGAN: Yes.

The Hon. R. C. Mattiske: Would you accept an amendment that where a road is already constructed other than by a subdivider, clause 6 will not apply?

The Hon. L. A. LOGAN: That is not easy. It is difficult to arrive at a definition, but, as far as I am concerned, the application should be only to an area that can be subdivided. It would never apply to a street like Hay Street, which has been there practically for ever. It will apply only where a local authority or a subdivider has paid for the cost of the road. In other words, it will apply where money has already been spent for the benefit of the other person who wants to subdivide.

I consider this Bill to be essential, and I therefore do not want to lose it. After all is said and done, when the late Hon. Gilbert Fraser was Minister for Town Planning, he endeavoured to do just what I am seeking to do. However, it has been very difficult to obtain suitable wording to include in a Bill. Make no mistake about it, if members were doing the work of the Town Planning Board, their views would be the same as those of the board.

I agree with Mr. Watson in regard to to what he had to say about stamp duty; but that is a position that cannot be met by this Bill. I would like Mr. Watson to know that I have already called a conference to discuss this matter, and I am awaiting a legal opinion. There has been a slight disagreement between the stamp officer and the local authorities in respect

of this matter. I think it is only right that where a person transfers land to the Crown that person should not have to pay stamp duty. It is my intention to make sure that some amendment is brought forward next year; and I give an assurance that I will set things in motion in order to give effect to that intention.

Once again I repeat that the interim development order is covered by this Bill, and the amendments in the measure are essential because of the repeal of the Municipal Corporations Act by the passing of the Local Government Act. Members will now have an opportunity to study other parts of the Bill before the Committee stage is taken later in the afternoon or evening.

Question put and passed.

Bill read a second time.

ROAD CLOSURE BILL

Second Reading

THE HON. L. A. LOGAN (Midland—Minister for Local Government) [12.27 p.m.] I move—

That the Bill be now read a second time.

In moving the second reading of this Bill, which is usually explained to members towards the close of each session, and in respect of which the relative papers and plans are tabled in this Chamber, I desire to give a very brief description of the closures for which authority is sought.

The first of these appears in clause 2 of the Bill and provides for the closure of two dead-end portions of Rowe Street, Albany. The third clause proposes the closure of Anne Street, Bayswater, an undeveloped road which is being incorporated in a subdivision of adjoining land by the Shire of Bayswater.

Clause 4 is for the purpose of closing a private right-of-way at Inglewood. The majority of the owners of appurtenant lots agree to closure but there are five objections. The Shire of Perth and the member for the district support the closure.

Clause 5 seeks the closure of another right-of-way at Inglewood, to which there is no objection. Clause 6 covers the closure, on a date to be fixed by proclamation, of portion of the Kalamunda Road adjacent to the Midland Junction Abattoir site, when the recently constructed road diversion to Military Road has been dedicated.

Clause 7 requests the closure of various surveyed undeveloped roads through the burnt-out Scaddan pine plantation and adjoining reserves at Mt. Lawley which will be superseded by new roads in more suitable positions.

Clause 8 permits the closure of various undeveloped roads at Shenton Park in the City of Nedlands, through and adjacent to the University endowment lands. The land in the portions when closed is to be

vested in the University of Western Australia by way of exchange for portion of the endowment lands required for the new road to the Empire Games stadium from Hay Street, Jolimont.

Clause 9 deals with the closure of a small portion of a road at Swanbourne Beach in the City of Nedlands. The land therein is to be included in Class "A" Reserve No. 7804. A new road in a slightly different position known as Odern Crescent has been provided in an adjoining subdivision by the City of Nedlands.

Clause 10 denotes a closure of portion of Dempster Street, Northam, which has been fenced in with Westralian Farmers' Co-operative Limited adjoining sale-yards and holding paddocks. The land in the road is to be re-vested and sold to the company.

Clause 11 defines the closure of the remaining portion of Miriam Street, North Fremantle, with the intention of making the land available for sale to Caltex Oil (Australia) Pty. Ltd.

Clause 12 indicates the closure on a date to be fixed by proclamation of portion of Harvest Terrace, Perth, between Parliament Place and Malcolm Street and for the majority of the land in the portion when closed to be added to Parliament House Reserve No. A.1162.

Clause 13 sets out the closure of portion of Upham Street, Daglish, which is in the industrial area operated by the City of Subiaco and leased to various firms. The land in the road is to be added to the Municipal Endowment Reserve No. 9397.

And finally in clause 14 the approval of Parliament is sought for the closure of various roads at Jolimont in the City of Subiaco, which come within an area known as the Lake Jolimont compensating basin. A reserve for the purpose of "Drainage" is to be created and vested in the Minister for Water Supply, Sewerage and Drainage.

The proposals for the closure of these several roads have been carefully scrutinised by departmental officers, and are supported by the Minister for Lands and submitted through the introduction of this Bill for the consideration of the members of this Chamber.

Debate adjourned until a later stage of the sitting, on motion by The Hon. H. K. Watson.

CONSTITUTION ACTS AMENDMENT BILL

Second Reading: Defeated

Debate resumed from the 17th October.

THE HON. J. D. TEAHAN (North-East) [12.32 p.m.]: This amending Bill is primarily to give a vote for Legislative Council elections to the spouse of a person already enrolled. It could be said that

the main persons affected by the Bill will be the wives. Not only have we an academic knowledge of what is intended by the member sponsoring this Bill, but we also have a working knowledge of what is desired. I think I can speak for myself, at any rate.

I have been enrolling and assisting people to enrol for the past 25 years—and if a candidate in an election did not enrol electors we would find the roll very poor indeed at the time of an election. How often have we knocked at a door, had a discussion with the housewife, and found her to be most intelligent and having a sound knowledge of politics—possibly better than many men? However, on speaking to her, we have found that she is not entitled to be enrolled; and it is difficult to explain to her the reason why this is so.

She could be one of the most prominent citizens of the town, yet not be entitled to be enrolled. We may call at a flat which, according to instructions from the electoral office, is not regarded as a dwelling or a residence because it does not have its own entrance to the street separate from the main building. In that case, the occupant would not be entitled to be enrolled, although quite possibly the occupant's wife may be so entitled by reason of the fact that she owns property somewhere else.

The husband might also be a prominent citizen, but he would not be entitled to be enrolled. From personal experience I know of many wives who are most intelligent and who in many ways could, perhaps, be called the senior partner of the household; yet these persons are not entitled to be enrolled.

Perhaps the best arguments which have been advanced are those which have emanated from persons outside of Parliament House. One person who comes forcibly to my mind is Mrs. Isabel Johnston of Cottesloe. I know this lady personally. For most of her life she has been active in all sorts of organisations. She has been a very useful and honourable member of society, and has been associated with many women's organisations. She has taken a greater interest in public affairs than a good many other women, or men. I sat with her on a betting Royal Commission and, over the course of many months, I had an opportunity of discovering the knowledge she possessed and the judgment she had. Her letter, which appeared in *The West Australian* on the 31st October, 1961, is as follows:—

The extension of the Legislative Council franchise to wives sharing the marital home is long overdue and I hope that the Legislative Council members will bestir themselves to give

voting power to the resident wife of the resident husband where joint ownership does not apply.

I think that portion of the letter speaks for itself in a few concise words. I received a letter from the Women's Service Guilds Incorporated of Western Australia which, for years, has been taking an active interest in everyday matters concerning citizens. The letter, dated the 25th October, 1961, from the State President, Mrs. Hope Rankin, reads as follows:—

Our organisation strongly supports the Bill at present before the Upper House proposing to give the spouse of a qualified Council elector the right to vote at Upper House elections. Our members have always felt very strongly on this issue, and as early as 1944, when a Select Committee was appointed, we had endeavoured to get this measure of justice.

That would be about 16 or 17 years ago. The letter continues—

We therefore urge that you give this Bill your strong support and remove one of the most obvious anomalies from the franchise.

On the 23rd October, 1961 *The West Australian* saw fit to publish a subleader on the subject. This is what it said:—

Council Vote for Wives

It is hard to see how Government members of the Legislative Council could sustain an objection to giving wives of qualified Council electors the right to vote at Upper House elections. The principle of Mr. Heenan's Bill was recommended by a Council Select Committee in 1944.

If the Bill became law it would help to simplify the Council's outmoded and complex franchise and to remove anomalies. But its main effect would be to recognise the right of women who have contributed to the building of a home and the rearing of a family to vote at Council as well as Assembly elections.

It would be a big step towards adult franchise for the Council but since it is based on the marriage partnership it would not depart fundamentally from the present restricted franchise.

The Council's attitude to women is strangely inconsistent. One sits in its Chamber; it approves of women jurors; and a woman who meets the property qualifications may vote at Council elections. Thus a wife who is a joint owner with her husband has a vote but a wife who has not been admitted to such an arrangement is denied one.

The Bill would make a clean sweep of this. Enrolment and voting would remain optional and the Council

would pursue the even tenor of its way. It is surprising that the Government should have left such a reform to be sponsored by an Opposition member.

Without wearying the House further, I strongly support the second reading of the Bill.

THE HON. R. F. HUTCHISON (Suburban) [12.41 p.m.]: In rising to support this Bill, I consider that the giving of Legislative Council voting rights to wives is long overdue. I have taken the trouble to read the debates on this subject back to 1944 when a Select Committee was appointed. Some of the speeches amazed me. Sir Hal Colebatch introduced a similar Bill under the Wise Government. It seems to me altogether wrong that we have to argue the point concerning the widening of the franchise which this Bill of Mr. Heenan's brings forward.

If, as legislators, we look at the subject of marriage we find that on her marriage a woman has certain rights. I do not know whether she has the right fundamentally to claim on property without a will, but I know she has to be provided for by her husband in some measure. In many cases a man builds a home, and besides that there is a little property; and the wife has an equal share in the house. Why she should be denied the civic right of a vote is beyond my comprehension. I do not know how the Liberal-Country Party can salve its conscience in denying a wife the fundamental right to vote.

One of the arguments put forward in the speeches which appear in *Hansard* is that the property-holder is a thrifty person in the community. The stand they took was that the person who builds a house and owns property is the thrifty person in the community and, therefore, has the right to say who shall be allowed to have a vote for the Legislative Council.

In 1946, Mr. Simpson spoke on a Bill to amend the Constitution Act, and he quoted John Stuart Mill as a background; and that rather surprises me. I take it he opposed the Bill, although his name does not appear amongst those who voted on it. The following, which appears at page 2102 of *Hansard* for 1946, is a quotation from John Stuart Mill:—

One of the most indispensable requisites in the practical conduct of politics, especially in the management of free institutions, is conciliation, a readiness to compromise, a willingness to concede something to opponents, and to shape good measures so as to be as little offensive to persons of opposite views, and of this salutary habit, the mutual give and take is a perpetual school.

The Hon. C. H. Simpson: I was very raw in politics then.

The Hon. R. F. HUTCHISON: I'll say you were; and I am going to show just how raw the honourable member really was. He quoted further from John Stuart Mill as follows:—

A majority in any single assembly, when it has assumed a permanent character, habitually acting together, and always assured of victory in its own house, easily becomes despotic and overbearing, if released from the necessity of considering whether its acts will be concurred in by another constituted authority.

Mr. Simpson goes on in his own words to say—

It can be strongly argued that this is not in the best interests of the people, because it means that either in one House or the other, a section of voters is permanently without political representation.

Sitting suspended from 12.48 to 4.30 p.m.

The Hon. R. F. HUTCHISON: Before the suspension I checked in *Hansard* the speeches and the votes which were made on a Bill similar to this some years ago, and it was only then that I realised that Mr. Simpson was one of those members who absented himself when the vote was taken on the second reading of the Bill.

The Hon. A. F. Griffith: I have never been absent myself when a vote has been taken on any Bill.

The Hon. R. F. HUTCHISON: Mr. Parker spoke to the Bill which contained provisions granting the franchise to returned soldiers, and to the spouse for the household franchise; and there was another provision which I cannot recall for the time being.

I intend to quote extracts from the speeches made by members in previous years because I desire to point out to the House that we have travelled along the road far enough now to realise that times and views have changed. If present-day members of the House have not changed their views in accordance with the times, it is time they did.

In the *Parliamentary Debates* for 1950, Mr. Parker, on the 30th November, said this—

I do not want people to say that I voted for the other amendments in the Bill. I do not believe that because a man went to the war that gives him the necessary political knowledge to enable him to vote for members of this Chamber.

That is about the worst viewpoint I have ever seen recorded in *Hansard*. According to that honourable member, a man could give his life for his country, but if he did return from service to take his rightful place in the community he should not be allowed to have a vote to elect members to this House. I will quote, shortly, the remarks made by Mr. Cunningham on the same Bill in 1950, and

on the same day. This was the Bill introduced in 1950, and we are now in the year 1961, and I want to know what members think now. Mr. Cunningham was very frank because he said—

I oppose the whole Bill. I am not concerned about the qualification of the wife of a householder, because under different circumstances I might consider supporting that provision.

I am hoping he has changed his mind since then. He went on to say—

However, for various reasons, in this instance I will not support it because I intend to vote against all the provisions in the Bill.

Further down the same page, he had this to say—

I have opposed this, as an executive member of an R.S.L. branch, and I also opposed it at R.S.L. conferences held in Perth. It cuts right across one of the two original points upon which the R.S.L. was founded—non-political and non-sectarian.

That is another wonderful speech! There is no doubt that there is a great deal of evidence in this *Hansard* concerning the thinking of members. I now want to go back, for a moment, to give the details of the voting on the Bill in 1946. On the division, taken on the 28th November of that year, the result was as follows:—

Ayes	....	....	....	....	11
Noes	....	....	....	....	8
Majority for					3

Those members who voted with the ayes included Sir Hal Colebatch, Mr. Gibson, Dr. Hislop, and Mr. Parker. However, although the division was given in favour of the ayes, with a majority of three, the President announced that as there was not a constitutional majority in favour of the Bill the question passed in the negative, and thus the Bill was defeated. So there, from the voting recorded on that Bill, we see democracy at work. Members absented themselves to defeat it, so as not to give the necessary constitutional majority to pass it. On the 30th November, 1950, Mr. Parker was recorded in *Hansard* as saying—

That vote is a privilege granted to those who, by their thrift and faith in the State, have established a home. Because they have that stake in the country, they have become entitled to vote for the Legislative Council. It does not matter whether the home is on the basis of ownership, leasehold or rental; it earns for those concerned that particular right. It is quite correct that the person who is prepared to have a stake in the country should have rights and privileges above those who do not accept such a responsibility.

Mr. Heenan supported this Bill in 1950, and I draw the attention of members to the fact that the arguments adduced by members in 1950 do not apply now because we have passed through a World War, the aftermath of which has altered the whole concept of the franchise of this House, whether it is admitted or not.

To me, and to everyone who is a democratic thinker, the Bill seeks to bring justice into the Constitution; in other words it aims at correcting a glaring injustice. Public opinion is aroused, and the time is ripe to amend the law regarding the franchise for the Legislative Council. The Press has expressed itself in favour of reform for this franchise. Justice is a fundamental necessity to good government, and the franchise for the Legislative Council is unjust. Therefore, it is wrong in principle and wrong in common justice, and only an amendment to the Constitution to effect just legislation can make it right.

Two world wars have altered the whole concept of the arguments used in the past to justify the imposing of the will of a few to the detriment to the many. In the post-war years, when the men returned from active service overseas, there was a real shortage of houses in this State and, in fact, throughout the whole of Australia. They were not in a position to afford to buy a house to give them a stake in the country. They could not buy land, or purchase a home or any other material thing. Therefore, war has altered the entire future of the man who was held up as the one who owns a house and is regarded as the monument of thrift and stability in society.

As I have said, the war caused an acute shortage of houses, and for years, Governments became the major landlord, of thousands of citizens. Migration schemes have also changed the entire pattern of past habits. Modern living is far removed even from the circumstances that were outlined by those members contributing to the debates on a Bill to amend the Constitution Act in 1946. In that year, members of the Government argued on might against right. The onset of the second World War exploded the myth that a person who owned a house was the thrifty individual and therefore should be regarded as being a superior citizen and thus should have the right to vote for the Legislative Council.

As a result of the post-war shift of population, people of independent means were found living in rooms, and were thus denied a vote in the Legislative Council elections. I happened to have rooming houses at that time and I saw people who were well endowed, living in rooms with their families—sometimes in poor conditions—because they could not enjoy the

benefit of having their own roof over their heads. There was the need to provide a roof, because the children had to be housed.

It did not matter if the man did not have a penny; it did not matter how much he was in debt; it did not matter how big a rogue he was; and it did not matter how unstable he was, he had the preference in respect of housing against men who had all the qualifications, which members supporting the Government in this House have told us about, for being enrolled because they were the thrifty ones. How can we reconcile the speeches which we have heard in this House with the true facts I am presenting? How can the Minister argue that is right?

I have also received a letter which is similar in context to the letter received by Mr. Teahan and referred to by him. Furthermore, I have received many telephone calls from the general public in support of this measure. Women interested in the Bill have come to this House to listen to the debate, but because the item was not called they had to go away. I have been unable to get in touch with them to enable them to be present to hear the debate, because this item was called on suddenly.

I hope that all this evidence of repulsion to the existing franchise of this House will impress the Minister. The womenfolk want a fair deal and a vote. They consider that the spouse of a man who is a householder should be entitled to a vote. While a man who rents a house is given a vote because he is a householder, his wife is deprived of a vote. We in this House should not decide that the wife of a man who is a householder should be ineligible to vote for Legislative Council elections. The existing franchise is an injustice to the womenfolk, both in law and in ordinary thinking.

The time will come when the pressure for the widening of the franchise in the manner proposed in the Bill will be so great that this House will have to concede a vote to the womenfolk in question. The campaign will start in my constituency, and in the next two years I will make an attempt to bring before this House the signature of every woman in that constituency who has not the right to vote.

This Bill should have been debated before the dying hours of Parliament. I have shown that since 1946 the whole concept of the right to vote has changed. This House should have been convinced by what I put forward that there was something wrong with the thinking of the Government in this direction.

I have before me a letter written by Isabel Johnston who is in favour of this vote being extended to women. She has been the leader of many women's organisations in this State for as many years as I have been in public life. I also know of other women leaders, such as Mrs.

Rischbieth, who have been very prominent in this movement. I should also include the hundreds of other women who have worked for the good of the women-folk. To deny women a vote in the Legislative Council elections is wrong, especially as this is the House which takes part in deciding the laws under which the community has to live.

There are hundreds of women in this State who work for the community without any thought of recompense. The least we can do is to acknowledge their work for the community and their work as mothers or spouses of men; and the franchise should be extended to them.

The sponsor of this Bill, Mr. Heenan, was a member of the Select Committee to which I referred. I support him strongly in his plea to this House to go a step further and give the spouse of a householder a vote in Legislative Council elections.

THE HON. A. F. GRIFFITH (Suburban—Minister for Mines) [4.45 p.m.]: It is not my intention or desire to introduce any argument of a controversial nature, if I can avoid doing so. When we hear a person charging a Minister of the Crown with doing an injustice by bringing on Bills suddenly, we invariably find that the person making the charge is the most guilty.

This Bill was not brought on suddenly. It was brought on in the same manner as every private member's Bill is. The procedure has been the same since I have been in charge of this House: when the sponsor of the Bill is ready to listen to the debate and to reply to it, the item on the notice paper is called. The matters which were raised by the previous speaker do not advance the cause of Mr. Heenan, because they are not true.

The Hon. R. F. Hutchison: Do not start camouflaging!

The Hon. A. F. GRIFFITH: I told Mr. Heenan last night that when this item on the notice paper was reached we would deal with it. We did not reach that stage of the notice paper last night, so the item is being dealt with today. So members should not be impressed by the diatribe put forward by the previous speaker, because the charge she made is not true.

This Bill seeks to give the spouse of a householder a vote. In introducing the Bill, Mr. Heenan said that there are a number of qualifications in existence under which people are entitled to become enrolled for Legislative Council elections. He enumerated those qualifications—I think from the enrolment card—and quoted five of them. Under the Constitution there are six qualifications, and the fifth qualification on the card virtually covers the fifth and sixth qualifications.

In introducing the Bill, Mr. Heenan subscribed to the idea that it was a lamentable state of affairs that a lot of people were not qualified to be on the Legislative Council rolls, and that of those who were

qualified—to use his own words—a lot, either through ignorance or indifference, do not bother to enrol.

I ask if the addition of one more qualification will do anything else but add to the ignorance and indifference about which he spoke—although I do not admit that ignorance or indifference exists. I say that the person who is qualified to vote, who is sufficiently aware of his responsibility to the community to ascertain his right to vote, who if he is qualified becomes enrolled, and who subsequently votes at the election with a predetermined idea of casting a vote for his candidate, is a worthwhile constituent.

In this debate we can say a lot about the extension of the franchise of the Legislative Council, and about the bicameral system of Government; but by so doing we would be going over arguments which we have heard before. However, I want to examine some of the remarks made by Mr. Heenan and raise one or two points in rebuttal.

The Bill aims to extend the franchise by giving a vote to the spouse of a person who is entitled to be enrolled for Legislative Council elections. To say that there would be greater interest taken in Legislative Council elections because there was a wider franchise is, in my opinion, completely erroneous.

The Hon. F. R. H. Lavery: How do you make that out?

The Hon. A. F. GRIFFITH: If the honourable member cannot make that out I am surprised. Mr. Heenan said that through ignorance and indifference, people with five or six qualifications do not vote now. So we add another one and we think that is going to put an end to the already confusing situation. I do not think for a moment it is going to have that effect. Despite the honourable member's trepidation concerning the ignorance of people, it is not going to improve the matter whatever. I do not think for a moment that Mr. Heenan with all his experience as a lawyer is so unsophisticated as to think that if we give the enrolment to another section of the community, whatever it may be, it will have the effect of causing those people to vote.

The Hon. R. F. Hutchison: How do you know?

The Hon. A. F. GRIFFITH: If the honourable member will listen I will say what I think. She has already said what she thinks. I do not believe it would, because we know that if we add a dozen different qualifications to the card it is still a voluntary form of election and the only way those people would have their names placed on the roll would be if they were persuaded by a political canvasser. As Mr. Heenan has said, those people need to be canvassed by someone because of their ignorance or indifference. That is the way I see it.

The vote in this House has always been based on property franchise and it has been said that it has never changed. Of course it has! It has changed through the period of years since the day of the first Legislative Council meeting in this country; but the real basis of enrolment has not changed because it has been one of property franchise.

The Hon. R. F. Hutchison: I am glad you say that.

The Hon. A. F. GRIFFITH: The man who has a stake in the country is the man who is entitled to vote for those in this Chamber. Whatever I may say concerning the bicameral system of government and however I may endeavour to persuade some members to my point of view, I think I would be wasting my time. However, I am not satisfied to accept the argument put forward by Mr. Heenan that to give another qualification would in fact create more enrolments, because we know it would not. We know canvassing would have to be done and interviews arranged to get those people to place their names on the roll.

I return to my original statement and the thought which I have had over a long period of years now, and that is: it is infinitely better to have a thinking vote. When asked by interjection, I think by Mr. Ron Thompson, as to whether I would agree with voluntary voting for the Legislative Assembly, I said "Yes" and I say so again now.

The Hon. R. F. Hutchison: But you opposed it in this House and made it compulsory.

The PRESIDENT (The Hon. L. C. Diver): Order!

The Hon. A. F. GRIFFITH: I did not. Of course the honourable member's knowledge of the history of the place is lamentable. I was not here in 1933 when compulsory voting was made law. If I had been I would be a long grey-bearded old man by now.

The Hon. F. J. S. Wise: A private member introduced that Bill.

The Hon. A. F. GRIFFITH: Yes; and if I remember it was a Country Party member, Mr. Patrick.

The Hon. F. J. S. Wise: Yes; Mr. Patrick introduced it in 1933.

The Hon. A. F. GRIFFITH: That is right. So it is not very long since we departed from voluntary voting in both Houses.

The Hon. R. F. Hutchison: It is too long.

The PRESIDENT (The Hon. L. C. Diver): Order!

The Hon. A. F. GRIFFITH: I repeat, despite the constant interjections, I stick to my opinion that the thinking vote is much better than the enforced vote. I see no merit in this Bill and I propose to vote against the second reading.

THE HON. F. R. H. LAVERY (West) [4.54 p.m.]: I rise to support the Bill. I am surprised at the Minister's lack of knowledge which was indicated when he said that he believes—and he is entitled to his beliefs—that if this legislation were carried no more voters would place their names on the roll.

He stated that it was quite erroneous and untrue to say that if a wider franchise were allowed people would take a greater interest in the Legislative Council elections. I am just as sure in my mind that it is not erroneous and that it is true.

After having spent 40 years organising for elections in Fremantle—elections for the Senate, the House of Representatives, the Legislative Council, road boards, and municipalities—I can speak with some degree of authority. No person in this Chamber can deny that to persuade people to enrol for these elections we must have an organised system of calling on their homes and explaining to them just who is and who is not entitled to vote. I do not believe that there is a single member in this House who has not at some time played his part in such a system; and I say that without fear of contradiction.

We have all at some time visited the homes of men who hold fairly good positions but who are not sure whether they are entitled to a vote. Having had the situation explained to them they have been quick to enrol. At the moment I want to keep to the enrolment side of the matter and deal with the voting side later.

How many times have we called at a home and been told that the husband is not in and the wife does not know whether he is entitled to a vote. We have left the card; and some people, when we return, have the cards filled in and waiting for us whereas others have left them on the mantelpiece where they placed them after our visit. I agree with Mr. Griffith that the latter group are not interested and, even if we finally persuaded them to enrol, they still would not vote when the time came because they would just not be interested.

Then there is another group in which both the husband and wife are keen to become enrolled; and when we make it clear to them that the property qualification applies, they realise that the wife is not entitled to vote. Mostly the reason the home is in the husband's name is because before he married he purchased a block of land with the intention of building a home. Subsequently, after his marriage, he built the home, and not thinking of the Legislative Council roll, he had both the property and the house placed in his name. Of course, if he had it in the joint names of him and his wife, they would both be entitled to vote.

On the other hand, during our canvassing we find that a number of women are entitled to a vote because their houses are in the joint names of themselves and their husbands. That was the situation in my case. My late wife was entitled to a vote because the property was in her name, but I was entitled to a vote because I was a householder.

When we point out the situation to some people, they value their right to vote in the Legislative Council elections so much that they go to the trouble of having the property registered in their joint names, even if it costs them £15. It is an undeniable fact that that has happened. As the Minister said, those people have sufficient interest to see that their stake in the community entitles them to two votes instead of one.

So we have the situation, firstly, where the lady is not entitled to vote but she wants to vote. We have already in this session passed through Parliament a Bill relating to the Local Government Act, and we find that now some women are entitled to get on the local authority rolls because of the amendments that have been made to that Act.

Just recently I arranged for a young woman in Applecross to get on the roll. Her husband, who is a junior executive in the city, was the only one entitled to be on the roll although they had a home worth nearly £7,000. Now that this recent amendment has been made to the Local Government Act that woman will be entitled to enrolment. But she has had to apply to have her name added to the shire rolls.

The Hon. R. F. HUTCHISON: And she has to be on for 12 months before she can record a vote.

The Hon. F. R. H. LAVERY: That is correct. However, she is now entitled to a vote. All of us will have run across the case where there is a family of grown-up children living in the house. Perhaps there is a daughter working in an office in the city, and a son of 24 or 25 studying at the University. I am talking now particularly of the time just immediately after the war when lads who had enlisted had come back and had recommenced their studies after service overseas. Despite the fact that everyone in the family is playing his or her part in the community, in most cases the father is the only one entitled to vote for the Legislative Council elections.

Of course, this Bill will not entitle every member of the family to a vote, but at least it will give the housewife, who has reared the children and managed the house, an opportunity to be enrolled. Most of the women in those circumstances have borne the brunt of the troubles over the depression years, and surely they are entitled to be on the roll for the part they have played in managing their homes and rearing their children.

Young men have gone to the war, have come home and have been living with their families, but even though they have fought for their country they are not entitled to a vote; and neither is the mother under the present law. It is amazing the number of highly educated people who have their homes registered in the joint names of the husband and wife. One of the reasons for that is that they value their vote; and it is unbelievable to think that any member in this Chamber—and I am not casting a reflection on the honourable member concerned—and particularly a Minister, should come along here and say that to add new names to the roll will not mean any more votes being cast.

I support the Bill purely and simply because of the experience I have had over a number of years. During the last three Legislative Council elections in our district, Mr. Davies and I have added as many as 2,500 to 3,000 new names to the roll at each election. But it was surprising to us to learn of the number of married couples who were living happily together with the man having the property in his own name and the wife, although playing her part in the community, not being entitled to a vote. And that is all the Bill asks: that women in such circumstances be given the right to vote. These people have a stake in the community, and where a man has property it is essential for him to have a vote. But why should not the wife of such a person be entitled to a vote?

When a newspaper with the standing of *The West Australian* supports the contention, and says that legislation of this nature is long overdue, I feel honoured in being able to stand up and support the editorial. I support the Bill.

THE HON. J. M. A. CUNNINGHAM (South-East) [5.5 p.m.]: Every year a Bill similar to this is introduced; and it is usually by a private member, particularly if it seeks in any way to break down the present accepted franchise for this Chamber. The term "property franchise," on the tongues of most Opposition members, has come to sound almost like a dirty word.

The Hon. R. F. HUTCHISON: What reason have you for saying that?

The Hon. J. M. A. CUNNINGHAM: A pretty good reason I should say. But the fact remains that the franchise is a property franchise. It is not a biological franchise, or a marital franchise. If a woman shares in the ownership of a property with her husband she is entitled to be enrolled. There is nothing wrong with that, and there is nothing to prevent such a woman being placed on the rolls. Also, the fact that a woman does not own property, or in any way have a hold on the property jointly with her husband, does not preclude her from having a vote. There is the E.L.A.L. qualification.

The Hon. F. R. H. LAVERY: We want to amend that.

The Hon. R. F. Hutchison: If she is a widow she can go on to the roll.

The Hon. J. M. A. CUNNINGHAM: That is the point. If she is a widow she still qualifies in that she is a householder. She is not the spouse of a householder, which is the qualification some members are trying to espouse now.

The Hon. R. F. Hutchison: You wouldn't understand.

The Hon. J. M. A. CUNNINGHAM: I am trying to make the honourable member understand, if I can. I am not here to educate the honourable member, but the fact remains that the franchise is still based on property; and no matter how lightly we may talk about property, how can we agree, in all conscience, and in all principle, to qualify any person merely on the score that she is married to someone who has a right to be on the roll?

Several members interjected.

The PRESIDENT (The Hon. L. C. Diver): Order!

The Hon. J. M. A. CUNNINGHAM: The honourable member said that public opinion was aroused on this matter. I will refer back to another Bill which was introduced into this House, when we were assured that public opinion was vitally aroused; I refer to the Bill which dealt with women serving on juries. The honourable member must recall the assurances we had of the terrible desire there was and the urgent necessity for women to serve on juries. The result has been that 4 per cent. of women entitled to be on juries have availed themselves of the opportunity, despite the burning desire we were assured there was for this reform.

I say without any shadow of doubt that if this Bill were agreed to and we simply opened another avenue for women to get on the roll in a voluntary capacity, despite all the assurance we have had of the aroused public opinion, only about 4 or 5 per cent. of the women so entitled would avail themselves of the opportunity to be enrolled.

The Hon. R. F. Hutchison: How do you know?

The Hon. J. M. A. CUNNINGHAM: If the honourable member can understand me I will try to support my statement with figures. At the last biennial elections the public interest was indicated to this extent: The percentage voting for the various provinces was as follows:—

	Per Cent.
Metropolitan Province	32.12
Suburban Province	42
West Province	47
Central Province	50
Midland Province	60
South-East Province	61

Of those who were entitled to vote those are the percentages of people who voted. While people are not interested enough to go along and vote, what is the sense

of anyone standing up and saying that public opinion is aroused in this matter? What is the use of anyone standing up and saying that the people are incensed; that they want to get on the roll; that they want to vote?

The Hon. F. R. H. Lavery: Why didn't you quote the north-west figures?

The PRESIDENT (The Hon. L. C. Diver): Order!

The Hon. J. M. A. CUNNINGHAM: Interjections do not worry me, Mr. President.

The Hon. F. R. H. Lavery: They were 82 per cent.

The Hon. J. M. A. CUNNINGHAM: There is no north-west province! My personal opinion on this score of women being entitled to vote, and being enrolled on other than the property franchise, is the same as it was when I spoke on a previous occasion, which the honourable member quoted.

I believe that if there were more women on the rolls, generally speaking a much more moderate vote would be cast, because women are more moderate thinkers. Day in and day out a man is under the influence of his union or party colleagues. Discussions take place, and he is probably more interested in those discussions than he is in hearing other views and, consequently, he takes an interest only in his own particular field. So primarily his vote would be along the lines of the discussion which ensued during his day-to-day living. On the other hand his wife comes under no such influences and she is more likely to cast a vote according to her own convictions.

The opinion is often expressed that a wife does as her husband tells her in regard to voting. I do not believe that. I believe that if there were a higher percentage of female enrolments there would be a higher percentage of conservative votes cast. However, I cannot accept the argument that the honourable member has put forward that women should be enrolled simply on the score that they are married.

The Hon. F. R. H. Lavery: That's not what they tell us.

The Hon. J. M. A. CUNNINGHAM: I, too, have done some enrolling.

The Hon. F. R. H. Lavery: We all have.

The Hon. J. M. A. CUNNINGHAM: I quite agree, but the reaction of housewives when I have been enrolling has been quite different from what the honourable member has said. My enrolling has been in predominantly Labor areas; and that has been the honourable member's experience. It is strange that whenever I have called on women to enrol them I have not had one come to the door and abuse me over the fact that she cannot get on the roll.

The Hon. F. D. Willmott: Most of them object to being put on the roll.

The Hon. J. M. A. CUNNINGHAM: I have never had the door slammed in my face and I have never had anyone tell me that I was robbing her of a vote. I have not struck that sort of thing. Yet that is what we are led to believe happens—that that is the reception some members get when they tell some women they are not entitled to be enrolled for the Legislative Council. I do not believe it.

I attribute the lack of interest in Legislative Council elections primarily to the fact that voting is voluntary; and there is nothing to be ashamed of in that. If members like to check at the Electoral Office they will find that for Legislative Assembly elections prior to the time voting became compulsory, the percentage of votes cast was only in the vicinity of 30, 40 or 50 per cent.—almost identical to the percentage of votes cast at Legislative Council elections now. One of the main reasons for the present low percentage is that times are good, there is prosperity and progress. That is not the atmosphere in which public opinion and feeling is aroused or becomes militant. People are satisfied and contented.

We have mass meetings, with people shouting their heads off, and violence and militancy during times of want and privation and, when there is oppression and depression; but we have not had that state of affairs in this country for years, and I hope to God it never comes again. I hope we in this country will always have a Government that is reasonable and evenly balanced, and a Parliament in which 50 members can tear a Bill to pieces at one end of this building—and have three opportunities to do it—and 30 members at this end of the building can do the same thing on two or three different occasions. Today, when a Bill is finally passed, although it may still have some loopholes, it is pretty sound and good legislation.

The Hon. H. C. Strickland: Confiscation!

The Hon. J. M. A. CUNNINGHAM: I am addressing myself to this Bill. The President would pull me up if I started discussing such things as confiscation.

I would like now to refer to a matter that is not included in this Bill; it is the R.S.L. vote. Again we find it is most remarkable that a small group of people have for some reason advocated that membership of the R.S.L. should entitle one to have a vote. I say it is remarkable because the people in the R.S.L. itself are not pressing for that vote, any more than is the great body of women in this State. When the time comes for the average housewife—for our wives; our own women-folk—to challenge us for the right to be enrolled, then will be the time to give consideration to it.

Until that time arrives I cannot accept from any member the flimsy story that one or two leaders—and I am being generous when I say leaders—of women's organisations speak for the entire body of

women in this State. I am not prepared to accept that at all, any more than I am prepared to accept as fact that women were supposed to desire their release from enslavement, as was depicted by leaders of women's organisations chaining themselves to the railings of Parliament House in London, and starving themselves; which they did in order to secure the right to vote. When they got the right to vote they had to be dragged to the poll to vote; I submit the same thing would apply if we passed this Bill.

THE HON. F. J. S. WISE (North) [5.17 p.m.]: In my view there is no particular reason at all why this Bill cannot be discussed dispassionately without any vicious sentiment coming to the surface, without any political sentiment being paraded, and without any extraneous matter being introduced. All of that preamble may be apropos of nothing; on the other hand it may have an application to something that was very recently said.

This Bill contains one principle only. As the mover of the Bill clearly showed in his introduction, it was not introduced because of the whim of any person or any organisation; nor was it introduced because the leaders of any women's or men's organisations found some virtue or merit in the proposal and thus fostered and advocated it. It was the direct result of one of the recommendations of a Select Committee of this Parliament—and of this House of Parliament—chaired by a Country Party member some years ago. That was its origin.

When the Select Committee reported to this Chamber it made a recommendation that three principles be added to the qualifications within the franchise for the enrolment of persons qualified to vote for the Legislative Council of this State. That was its origin. As to its merit apart from that, I think members would be hard pressed to justify an argument based on the sort of assumption raised by Mr. Cunningham that simply because of sex women are not to be entitled, even on an equality basis within the franchise, to vote for a Chamber such as this.

The Hon. R. F. Hutchison: Hear, hear!

The Hon. F. J. S. WISE: The simple provision in this Bill is that if the husband is qualified, as the householder, to be enrolled and to vote for the Legislative Council, the spouse—mark this proviso—not having any other qualification in any other province shall be entitled to vote in the same province and with the qualification of spouse with her husband. It is as simple as that. It is as fair as any suggestion for representation within this Chamber as any Select Committee could conceive. That is how simple it is.

I do not agree with the Minister for a minute in his endeavour to cloud the issue and say that this will add to a multiplicity

of qualifications. That is what the Minister said. We acknowledge the number of qualifications at the moment; but we, surely, in the same breath and on the same analysis must concede that this one is simplicity itself. Unless there is some fear complex in the minds of members, which I cannot understand, as to what difficulty the inclusion of our womenfolk on the rolls of this Legislative Council might constitute at an election, I cannot appreciate their objections at all; nor can I understand where they come from.

I suggest this is the one qualification of them all that would be the most understandable and most understood by those entitled to the enrolment. That is the situation. It is merely a quibble to say that it would not add—and substantially add—by voluntary act to the enrolments for the Legislative Council. Given this right—call it a privilege if you like, Mr. President—I suggest the women would be the ones to prize it and use it.

So what is the fear and the worry about? What do our Country Party friends think about this? I repeat, the origin of this legislation was a Select Committee headed by a Country Party leader in this Chamber some years ago—a leader whose worthy son is now a member.

So I suggest firstly it is quite idle to say that this would not add to the enrolments, because it would add to the enrolments by people interested—by people particularly interested—in the sort of legislation that this Chamber ultimately passes. I cannot stand at all for the argument submitted by Mr. Cunningham as to the disinterest of people, implying that the voting percentages are so low.

I know of a province where, because of the interest of members within it, it can proudly be said that since they have organised their rolls they have made sure there is no chance of dead people voting. They enjoyed percentages in successive Legislative Council elections of 80 per cent. to over 90 per cent. of people enrolled and voting at all such elections. That is the situation.

Accordingly I support the Bill. I believe in its principle. I believe that the sponsor of the Bill stated a case worthy of the support of this Chamber. He stated a case to broaden the franchise to such a small degree, where there is just entitlement, that one would expect a complete endorsement by all members.

Personal Explanation

The Hon. R. F. HUTCHISON: I just want to make a personal explanation, Mr. President. When I said the Bill was brought on hurriedly I did not mean that the Minister brought it on hurriedly for any ulterior motive. I merely said that because I promised to inform one of the organisations, to which I have referred, when the Bill would be debated. I did

not mean to imply that the Bill was brought on hurriedly because of any wish of the Minister.

The Hon. A. F. Griffith: I accept the apology.

Debate Resumed

THE HON. E. M. HEENAN (North-East) [5.26 p.m.]: Before I proceed further, and apropos of the last comment of my colleague, Mrs. Hutchison, I want to make it very clear that I have to thank the Minister for holding over further consideration of the Bill until this week.

My next comment is that I appreciate the speeches that have been made by all members who have addressed themselves to this Bill. I was very impressed, as I am sure other members must have been, by the splendid case which has just been put forward by my colleague, Mr. Wise. I might add that I also appreciate the efforts of my other colleagues, and the views they have expressed in support of the Bill. While I appreciate the support from my colleagues, I must point out that I respect the points of view that have been submitted by the Minister and by Mr. Cunningham.

As I go along I hope to be able to prove to members that the arguments used in opposition to the Bill are erroneous and unjustified. It has long been felt by a great number of people that some extension of the franchise of the Legislative Council is needed. This is a very serious matter. Any amendment to the Constitution is a very serious matter; and I feel that the views of the speakers who support the proposition, together with the views of the people like the Minister and Mr. Cunningham—who had the courage to get up and oppose the proposition—should be heard and listened to; and, finally, an intelligent and careful vote should be cast because, as I have said, this is a very serious matter.

I am a little disappointed to look around the House at this moment, because, I repeat, we are dealing with a matter of great importance and one which has exercised the attention of many people for a long time.

As members know, this very House, 17 years ago, in 1944, appointed a Select Committee to consider this question of amending the Constitution as it applies to the franchise for this House. It was an important matter 17 years ago; and the Select Committee was one on which the various parties at that time were all represented.

That committee upon the evidence which was submitted to it said that the need for amendment had been shown. That should impress people like Mr. Cunningham. A Select Committee which took evidence from the public 17 years ago

came to that certain conclusion; and it recommended certain things, one of the most important of which was this—

(b) By permitting the husband or wife of any person enrolled under (a) to be also qualified for enrolment, and also the wife or husband of the owner of the dwelling.

I think that this small measure throws out a challenge to everyone in this House, because it is a very short Bill and it is the very minimum. Are we ever going to do anything with the franchise of the Legislative Council? Because, if any measure has ever come before this House with a sincere, meritorious purpose, and with solid backing behind it, surely this is it.

Over the 17 years, various Bills have been brought forward as Mr. Cunningham told us; and as we all remember, these Bills from time to time contained controversial provisions, with the result that they were defeated over the years by members who conscientiously were opposed to certain of the far-reaching provisions contained in those Bills.

But this measure does not come within the category of those Bills, as my friend Mr. Cunningham said. The honourable member said that over the years Bills similar to this had been brought down. Whenever was a Bill similar to this brought before the House?

The Hon. F. J. S. Wise: Never.

The Hon. E. M. HEENAN: And that is the erroneous and misleading argument which we members in this House are asked to be impressed by. Mr. Cunningham was not right there, because what he said was quite untrue and misleading. We have never had a measure similar to this one. Mr. Cunningham went on and said that there is no call for this measure—that there is no outcry for it. He wants the women—the wives and mothers in this State—to march up to Parliament House, presumably, or to tie themselves to railings, or do something like that before he will see any justification for giving a measure of this kind some consideration.

Let me refresh Mr. Cunningham's mind by quoting from a leading article which appeared in the *Daily News* of the 3rd December, 1948, as this will explode another of his arguments. I will not read the whole of the article, but just the last three paragraphs, and I hope members will listen to it very carefully. It reads as follows:—

It is true, as Opposition members said in the debate, that Legislative Council elections have indicated a lack of interest among those entitled to vote.

Would not the broadening of the franchise increase public interest? Is there any reason why voting should not be made compulsory, as it is in elections for the Legislative Assembly?

The measure of change proposed was far from being revolutionary, and the Legislative Council would have been well-advised had it accepted the proposals of a Liberal Party-C.D.L. Government.

It was not a proposal of a Labor Government. Continuing—

The world, including the political world, moves. No institution can remain unchanged for all time.

That is the challenge which this Bill throws out. Is the set-up of this House to be unchanged for all time? Or are we to make some small effort to keep up with the times?

Again in answer to Mr. Cunningham I shall quote from a report which appeared in *The West Australian* of the 17th December, 1948. I am sure Mr. Cunningham as a fair man will come to realise that the women are interested in this matter. The report is as follows:—

A strong protest against the Legislative Council's amendments to the Constitution Acts Amendment Bill (No. 2) has been made by the Perth Women's Service Guild. It agreed to the following motion:—

This meeting of members of the Perth Women's Service Guild protests most strongly against the action of the members of the Legislative Council in deleting the most important clauses in the Constitution Acts Amendment Bill (No. 2) dealing with the extension of the franchise to wives or husbands of householders. We consider the action taken to be insulting to the intelligence of women and it is deplorable in our opinion that such a moderate measure of reform and justice to the married women of this State should have been so decisively rejected by the members of the Legislative Council.

The Hon. J. M. A. Cunningham: It sounds like a similar measure to this one.

The Hon. F. J. S. Wise: You cannot get away with that one.

The Hon. E. M. HEENAN: I now quote from the *Daily News* of the 10th December, 1948. The following appeared in a leading article:—

Both leaders in the coalition which formed the Government included broadening of the Legislative Council franchise in their election campaign speeches, and the Bill to give effect to that policy was passed in the Legislative Assembly without a dissentient vote.

Sir Charles Latham and those who voted with him for the summary destruction of the Bill had no right to assume that the Assembly managers would not compromise in a conference with Council representatives. Refusal

to confer after requesting that the Assembly concur in Legislative Council amendments was high-handed.

Now I will read a brief quotation from a leading article which appeared in *The West Australian* of the 20th October, 1947. I should have read this first because it is antecedent to the other two quotations. It is as follows:—

It is widely accepted that the constitution of the Legislative Council is capable of considerable improvement.

The West Australian, the leading daily in Western Australia, and one which has a fairly sane outlook on most matters of public interest, said that away back in 1947. Only on the 23rd October last, *The West Australian*, true to its outlook and policy in this particular matter, published this—

It is hard to see how Government members of the Legislative Council could sustain an objection to giving wives of qualified Council electors the right to vote at Upper House elections.

If the Bill became law it would help to simplify the Council's outmoded and complex franchise and to remove anomalies.

The Hon. F. J. S. Wise: I agree with that.

The Hon. E. M. HEENAN: Continuing with the quote—

But its main effect would be to recognise the right of women who have contributed to the building of a home and the rearing of a family to vote at Council as well as Assembly elections.

The Hon. G. Bennetts: It got a bit sympathetic on that.

The Hon. E. M. HEENAN: The Minister is at variance with *The West Australian*. He says that the measure would do nothing; and dealing with the Minister's arguments—and he is entitled to his views which he expressed in a forthright way which earned my respect—I consider they are erroneous and do not by any means combat the arguments used by the Select Committee after hearing evidence; nor do they combat the views of our two daily newspapers over the years, and various other views.

The Minister said he did not think I was so unsophisticated as to believe that if we had another qualification it would cause more people to enrol and vote. He said, "We know it would not." I am wondering whether, if I could prove to the Minister that it would add to the enrolment, that would satisfy him; and whether he would support it.

The Hon. A. F. Griffith: You say it would not. What do you think I am going to say after that?

The Hon. E. M. HEENAN: The Select Committee found that the unsatisfactory state of the roll was due largely to the ignorance of a lot of people concerning the numerous qualifications which exist.

The Hon. A. F. Griffith: Do you know what the percentage of enrolment was 17 years ago compared with what it is today?

The Hon. E. M. HEENAN: No, I cannot remember. Let me proceed with the argument I am dealing with.

The Hon. A. F. Griffith: It is very much greater today.

The Hon. E. M. HEENAN: At the present time we have to go along to people and say to them, "Are you a Crown leaseholder? Are you a freeholder? Are you an equitable freeholder? Are you a householder? Are you this, and are you that?" How many people would understand those terms? I am sure if we are honest with ourselves we will readily admit that this is so. But if we say to the people of Western Australia, "Every man who owns or rents a house, and the wife of every such man, is entitled to the vote", do members not think that would simplify the issue; and would it not cause people to understand the position better and enable them to enrol?

That is all that this Bill sets out to do. In future, we will not have to say to the station-owner, "Are you a Crown leaseholder?" Or to the man who owns a mine, "Have you got a Crown lease, and what is its number?" Or to the farmer, "Are you a freeholder?"

The Hon. A. F. Griffith: How would your Bill relieve that situation?

The PRESIDENT (The Hon. L. C. Diver): Order!

The Hon. E. M. HEENAN: It would relieve that situation because every man on a farm is a householder. If he lives in a house which is worth 7s. a week he is a householder. He could also be a freeholder, and he could also be a ratepayer. I am sure the Minister could call himself a number of things in order to enrol.

The Hon. F. J. S. Wise: We do!

The Hon. E. M. HEENAN: He could call himself a freeholder, and I am sure he could call himself a ratepayer. If his house is in the name of himself and his wife he could call himself a joint freeholder. Those are facts.

I have already related to the House my recent experience at Mt. Magnet, which occurred only a couple of weeks ago. I called on a pensioner at his house. It was quite a decent house, and he was receiving a pension. He was not on the roll, and I said to him, "You are entitled to go on the Legislative Council roll." However, he would not believe me. He said, "I do not own this; I do not pay rates; I am a pensioner"; and he had it firmly fixed in his

mind that he was not entitled to go on the roll. Members will know that that point of view exists very widely.

A member: Very widely.

The Hon. E. M. HEENAN: The Minister said that the Bill adds one more qualification. This Bill has the effect of simplifying the whole thing. If this Bill were passed every man, and the wife of every man, who occupies, or owns, or rents a house worth approximately 7s. a week would go on the roll, and we would not have to write down, "Freeholder," "Certificate of Title, Vol. so-and-so." We would not have to do any of those things.

Mr. Cunningham spoke about women. I am going to speak about wives and mothers, because they are the only ones to whom this measure will apply, and not to daughters and others. Let us take the wife of a farm-owner. The farm might be in the husband's name, but by all the laws of fairness and equity the wife, who has lived on the farm and borne the stress of hard times, and shared the satisfaction of good times, and reared a family, has some interest in the property; and surely she should have a vote in the country in which she has lived and has worked for so long.

That argument does not apply in any lesser degree to the wife of an engine-driver who lives in, say, East Perth and who is away for half of the time. He hands the rent money to his wife, and she pays the rent, pays the bills, and sends the children off to school. He has a vote as a householder; but is she not as much a householder as he is? And could she not justifiably say to us, "I am entitled to a vote for the Legislative Council?"

Apparently those are not only my views; they have been eloquently expounded by Mr. Wise and others during the course of this debate. They have been held by many others over a long, long period. They were held by Mr. Watts, who is a man of high standing and a man whom we all respect. They were held by Sir Ross McLarty, because it was announced in his election policy speech that if his party were returned it would do something about the matter; and something was done about it, because a Bill was brought in but was defeated in this House.

The Hon. G. Bennetts: They might have known the numbers were against them.

The Hon. E. M. HEENAN: There have been leading articles in *The West Australian* and other newspapers, and surely leader writers can interpret public opinion in some degree!

I appreciate the attention which members have given me. I cannot see what satisfaction Mr. Cunningham gets from the fact that for the Metropolitan Province seat in the Legislative Council only 32 per cent. voted at the last election; for the Suburban Province seat, only 42 per cent.

voted; and for the West Province seat, only 47 per cent. voted. If we are going to progress in this young country; if we wish to maintain our high ideals; and if we are going to encourage the community to take an interest in local matters as they should, were I in Mr. Cunningham's position those figures would worry me very much; and they do worry me very much.

I feel that we must do something about the matter. This small Bill is an invitation for us to do something in a way which I think is a good one, which my colleagues think is a good one, and which Sir Ross McLarty, Mr. Arthur Watts, a Select Committee a few years ago, and various others thought was justified and worth while. I really think on this occasion we have made our case, and I sincerely hope the second reading of the Bill will be carried.

Question put.

THE PRESIDENT (The Hon. L. C. Diver): This Bill requires an absolute majority of the Council, and it is necessary to divide the House.

Division taken with the following result:—

Ayes—13.

Hon. G. Bennetts	Hon. F. R. H. Lavery
Hon. E. M. Davies	Hon. H. C. Strickland
Hon. J. J. Garrigan	Hon. R. Thompson
Hon. W. R. Hall	Hon. W. F. Willesee
Hon. E. M. Heenan	Hon. F. J. S. Wise
Hon. R. F. Hutchison	Hon. J. D. Teahan
Hon. G. E. Jeffery	(Teller.)

Noes—16.

Hon. C. R. Abbey	Hon. G. C. MacKinnon
Hon. N. E. Baxter	Hon. R. C. Mattiske
Hon. J. Cunningham	Hon. J. Murray
Hon. A. F. Griffith	Hon. C. H. Simpson
Hon. J. G. Hislop	Hon. S. T. J. Thompson
Hon. A. R. Jones	Hon. J. M. Thomson
Hon. L. A. Logan	Hon. H. K. Watson
Hon. A. L. Loton	Hon. F. D. Willmott
	(Teller.)

Majority against—3.

THE PRESIDENT (The Hon. L. C. Diver): As there is not the required absolute majority in favour of the Bill, I declare it lost.

Question thus negatived.

Bill defeated.

POLICE ACT AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by The Hon. A. F. Griffith (Minister for Mines), read a first time.

Second Reading

THE HON. A. F. GRIFFITH (Suburban—Minister for Mines) [6.1 p.m.]: I move—

That the Bill be now read a second time.

This Bill proposes to insert a new section 89A among the gaming sections of the Police Act, and its legislative functions occur in the second clause.

Subsection (1) of the proposed new section 89A empowers the Governor, subject to certain reservations contained in subsection (3), to prohibit the use or possession

of any slot machine or class, or classes of slot machines, by proclamation from time to time, on the recommendation of the commissioner.

Paragraph (b) of subsection (1) accords similar powers in respect of the prohibition of the use or possession in any place, class, or classes of place, of any slot machine, or class, or classes of slot machine, as named or described in the proclamation.

There is the usual provision in subsection (2) for the cancellation or variation of such proclamations.

Because of the widespread use of the slot machine for multifarious purposes, it is necessary to isolate the type of machine to which the police take exception, by reserving certain other types of machines from the consequences of the law; and these are clearly described in paragraphs (a) to (e) of subsection (3). All of these types may be used legitimately when they afford no ulterior consideration, advantage or reward.

Perhaps particular mention might be made of the type of machine covered by paragraph (e) which will be permitted to enable two or more competitors to play a game entirely of skill for the payment of a small or token amount.

Subsection (4) provides the police with authority to seize and remove such prohibited possession from a place in which its position is prohibited under the authority of the new subsection 89A.

The penalties for contravening the provisions of the new subsection are set out in subsection (5), a person using such machine being liable to a penalty of £10, and the person having it in his possession being liable to a penalty of £25.

There is a further provision in subsection (6) under which the court may order such a machine, and also any moneys or tokens found in the machine, to be forfeited to Her Majesty.

This subject was raised in the House not many days ago by Mr. Jeffery, and by way of interjection I advised the honourable member—

The Hon. F. J. S. Wise: Not Mr. Jeffery; Mr. Ron Thompson, I think.

The Hon. A. F. GRIFFITH: I apologise; it was Mr. Thompson who raised the question, and I told him by interjection that the problem was receiving the attention of Cabinet. My late colleague, the Minister for Police (Mr. Perkins), was dealing with this matter right up to the day of his death. The Bill was introduced into another place, and it has been passed to us for consideration. I commend the Bill to members.

THE HON. H. C. STRICKLAND (North—Leader of the Opposition) [6.5 p.m.]: I have studied the Bill and the purpose of its introduction, and I am going to support it. It does require some slight alteration, but the Minister did not advise us of that alteration.

The Hon. A. F. Griffith: I was going to tell you in Committee.

The Hon. H. C. STRICKLAND: I understand that in another place the Attorney-General agreed that there was a mistake in the drafting of the Bill and that it would be rectified.

The Hon. A. F. Griffith: The word "prohibits" is in the wrong place in clause 2.

The Hon. H. C. STRICKLAND: That is correct. It should come after the word "proclamation."

The Hon. A. F. Griffith: That is right.

The Hon. H. C. STRICKLAND: It is most desirable that some control be established over the wide-spread introduction. I would say, of certain types of machines. Some of the slot machines are quite all right, and the Bill provides that those types of machines will not be interfered with. A proclamation cannot be made against certain types of machines which are described in subsection (3) of proposed new section 89A.

There is another very pleasing feature about the Bill inasmuch as clause 2 provides that the Governor may, subject to certain exemptions, on the recommendation of the Commissioner of Police, prohibit by proclamation certain machines. That is a very good feature; it means that the Commissioner of Police will virtually be the adviser, through the Minister, to the Executive Council and the Governor in relation to the types of machines, the places where the machines are operated, and the manner in which the proclamation shall be issued to prohibit the use of the machines. I do not think we could have anything much clearer or fairer.

It is most desirable that legislation of this nature be established. It may be that at some future time—after the law has been implemented—anomalies will be found. I daresay that no law has ever been passed which has been perfect and which has not, at some later date, been found to contain an anomaly that needed to be rectified.

So my support of the Bill at this stage is to establish it among our other laws—to put it in the Police Act—and then, deal with it further if necessary; because Parliament, or any member of Parliament, always has the opportunity of proposing an amendment to correct a defect found in an Act after it has been in operation.

Sitting suspended from 6.8 to 7.30 p.m.

THE HON. R. THOMPSON (West) [7.30 p.m.]: I am extremely pleased to see this legislation before the House, so I will not endeavour to delay its passing by speaking at length. Most members have read the reports of the recent Press surveys that were conducted by the *Daily News*, the *Weekend News*, and the *Sunday Times*,

which have proved conclusively in their minds, I am sure, that these pinball machines tend to create child delinquency.

There have been some doubts raised as to whether the legislation will be completely effective in controlling these pinball machines, but at least the Bill is something better than we yet have on the statute book, inasmuch as it grants power to the commissioner to gazette regulations to—

- (a) prohibit the use or possession of any slot machine, or class or classes of slot machine; or
- (b) the use or possession in any place, class or classes of place of any slot machine, or class or classes of slot machine.

I think the Bill contains sufficient to do what we are trying to achieve; namely, to rid those places which, at the present time, are operating these machines, and which are a breeding ground for delinquency because of members of the younger generation being tempted to use the machines.

Further, adults are also using these machines as a form of gambling. Because these machines are in operation for 24 hours of the day, there is no restriction or control imposed as there is over gambling on races or on the trots, and therefore the temptation to gamble is held in front of people at all times.

It has been brought to my notice that one establishment in Fremantle, which has a manager in charge of these pinball machines, offered an apprentice engineer £50 if he would make him duplicate keys for the locks of these machines; and it is some proof of the profits that must be made by the owner of this establishment, when the manager of it is quite prepared to bribe or tempt a young man to do something unlawful in every sense of the word.

The Hon. A. L. Loton: He was going to "tickle the peter," was he?

The Hon. R. THOMPSON: Yes; that is putting it plainly. He was going to get his share of the profits over and above that which he was receiving in wages to manage the place. I think every member of the House should give his support to this legislation, and I support the second reading.

THE HON. J. D. TEAHAN (North-East) [7.35 p.m.]: I am pleased Mr. Ron Thompson brought this matter forcibly to our notice, and I am also pleased the Minister acted promptly to introduce legislation to stay an evil before it developed into a scourge, as it has in the Eastern States. I think that Mr. Hawke, the former Premier, also took similar action some years ago in this regard; and those members who have visited the Eastern States in recent months and seen the slot machines in operation, must realise that they have developed into a big business and are now proving to be quite a problem.

I admit that I am not a gambler, but most people are, whether of English, Irish or Scotch extraction. There are many people who love to gamble, and the avenues that are provided for their interests are in racing and trotting, which sports have existed for 100 years or more. In those fields of gambling, there is some form of control exercised.

Gambling on slot machines has proved to have a great appeal for the younger people of our community, and I have often thought that some of the young people who have been found with their hands in milk jugs removing money, or obtaining it by other illegal means, often find their way into these establishments where they can gamble such money on the slot machines. I therefore think the Bill is timely, and I have great pleasure in supporting it.

THE HON. E. M. HEENAN (North-East) [7.37 p.m.]: I think it will be generally conceded that legislation along the lines contained in the provisions of this Bill is necessary. However, I have had an opportunity to obtain some information on certain types of machines which are now in operation and which, it seems, will be covered by the general ban imposed by the Bill. According to this information, there are two types of machine now in operation in and around Perth and its suburbs.

Some of these machines are designed and used for gambling purposes, and apparently their use has created a situation which is causing concern to the police and the Government. I feel sure that that concern has some justification, and has been responsible for the introduction of this Bill.

Nevertheless, from the information I have received, there are other machines which are conducted by reputable people, which are used purely for the purposes of enjoyment and amusement, and which have no association with betting or gambling. I have often taken my son and some of his friends for a swim, following which they have invariably had a cool drink or an icecream. Having time on their hands they quite innocently enter one of these establishments which have slot machines and place a coin in one of them for the purpose of exercising their skill or trying their luck to put the ball in a certain slot.

I can recall another machine which I have seen, where at one end one can push a knob, and at the other end another person can push a knob, and eventually the ball disappears and one person or the other wins or loses. However, these machines have no association with gambling, and, in my opinion, are an innocent form of pastime and enjoyment.

A few years ago in America, this vexed question resulted in court proceedings, which were the subject of an appeal to

the Supreme Court of America. I intend to read an extract from one of the submissions which were made on behalf of what I will call the amusement machine. It reads as follows:—

Responsible manufacturers of amusement-type machines do not claim overbearing social worth for their products. The games they market—primarily pin-ball games—give harmless amusement and diversion for a very modest consideration. They please their patrons, momentarily, perhaps, by providing an animated, somewhat challenging test of luck and skill, which is its own reward and which makes no appeal to the so-called gambling urge. They own to serving human idleness. But they do not exploit human weakness.

The pin-ball game may fairly stand for judgment in the company of juke boxes, soap operas, country fair concessionaires, comic books, B-minus movies, and the merchandisers of slightly toxic substances like tobacco. In such company these devices hold their own. What injures them undeservedly is their perennial identification with the gambling-device industry and the unsavoury twilight zone of illegal gambling. And as noted in the argument under Point I. above, confusion in this respect is sometimes deliberately fostered.

The coin-operated pin-ball game is no relation of the gambling slot machine

And so it goes on.

This Bill proposes to give the Commissioner of Police an overall jurisdiction in regard to all these machines; because the ones I have in mind do not come within the list of exceptions in subsection (3) of the proposed new section 89A.

If the Bill is passed, it will give the commissioner complete jurisdiction over these machines, which, in my opinion, are used solely for the purpose of amusement, and are entirely dissociated with gambling. The Minister in his reply will probably tell me that the Bill provides protection for those people. He will probably say the Commissioner of Police will not take any action against those machines. What we have to bear in mind is that the Commissioner of Police and his officers will be the sole judges.

The Hon. A. F. Griffith: Who is responsible for issuing the proclamation?

The Hon. E. M. HEENAN: The Governor on the recommendation of the Commissioner of Police.

The Hon. A. F. Griffith: So the Commissioner of Police has not the overriding authority.

The Hon. E. M. HEENAN: If the Minister puts it that way I will have to agree. We can take it for granted that in a general way the Commissioner of Police will be the sole judge.

The Hon. A. F. Griffith: I have to put it that way, because that is the way in which the Bill is framed.

The Hon. E. M. HEENAN: The Governor will issue the proclamation on the recommendation of the Commissioner of Police.

The Hon. A. F. Griffith: Only if he thinks fit.

The Hon. E. M. HEENAN: Of course, the Governor is the ultimate arbiter.

The Hon. A. F. Griffith: In other words, the Minister is.

The Hon. E. M. HEENAN: In actual fact the Commissioner of Police will have a vast amount of say. We are dealing with a fairly important amending Bill which has been introduced when there is insufficient time left during the session to give the Bill our complete attention and study.

We all agree—and no-one more strongly than I do—that if these machines are associated with any evil influence which affects the boys and girls in this State, this legislation should be supported very fully. However, we have to be careful in passing measures such as this at a late stage of the session because by doing so we may inflict an injustice on a section of the community which is prepared to lay its cards on the table and submit the machines to inspection and demonstration. This section of the community enjoys rights the same as any other, and their rights should be protected.

That is the point of view I hold. I do not want anyone to think that the purpose of this Bill, which is designed to protect the young people, has not my full support, because it has. But sweeping laws such as this can do an injustice to a section of the community which it is our duty to protect. We should ensure that they receive a fair go. I am sure that not many members in this House know very much about these machines or have seen them in operation. Most of us would support any action of the Commissioner of Police in trying to stamp out an evil which exists in the community, but we have a duty to make certain that we do not inflict an injustice in attempting to correct an abuse.

I repeat that it is unfortunate that the people I have in mind have been given little or no opportunity to present their case up to this stage. I am an inadequate advocate on their behalf, because I do not know sufficient about the machines in question, but they have assured me that they are prepared to submit the machines to any investigation and they are prepared to answer any questions put to them. They believe that their machines are not

in any way associated with gambling, nor are they associated with any evil influence on the young people.

Probably the Commissioner of Police will bear those aspects in mind. In passing this Bill we will be handing over to him a blanket cover over these machines. In my opinion it is not right that he should be the sole judge where the investments and earnings of people are affected.

I was hoping that the House might consider it would be fair to pass the second reading of the Bill and then refer it to a Select Committee. Such a committee could go into the whole set-up and bring forward recommendations for legislation to be introduced next session, to ensure that the fair thing is done by all.

The Hon. A. F. Griffith: How much time would elapse before the committee would make a report and legislation would be passed?

The Hon. E. M. HEENAN: I would estimate six months.

The Hon. A. F. Griffith: That is provided Parliament sat in six months' time.

The Hon. E. M. HEENAN: I do not know when Parliament will meet next year. It will probably meet at the usual time in July or August. A delay would be justified if we can ensure that no injustice is done to any section of the community by the passage of this Bill. In cases like this it is better to be sure; in fact, we have an obligation to ensure that innocent people do not suffer through legislation such as this.

Those are the views which I hold on this matter. I want to assure the Minister and all members in this House that no-one here holds stronger views than I in respect of gambling devices which corrupt young people. I am wholeheartedly behind the Bill in regard to that aspect.

I hope members will have a good look at the Bill and will not rush in at this late stage of the session, when we do not know very much about the subject involved, to pass it. I think that a delay of six months will not do very much harm; on the contrary, it might do a vast amount of good. I trust that some members in this House will give the measure a second thought, in the hope that we will be able to arrive at a wise solution.

THE HON. G. BENNETTS (South-East) [7.55 p.m.]: I commend the Minister for introducing this Bill, because any legislation which will prevent or curtail gambling among children will always have my support. When I read the newspaper report indicating that this Bill was to be introduced, I felt happy because I have many young grand-children and I was afraid of what they would get up to. In certain districts in my electorate, I was amazed at what went on in the establishments where these machines have been installed.

Children go to those establishments, and in the first place they are encouraged to play the juke boxes. By inserting a coin a recording is played, and usually it is the rock-and-roll type of music, to which the children hop about like kangaroos. Later they are enticed to use the gambling machines.

Generally children obtain the money for this purpose from the purses of their parents. If they are not successful in obtaining money by this method, they try other methods. I know of recent instances of children who, in attempting to raise money for these machines, have taken milk bottles to the shops and obtained refunds. Some of them have taken full bottles of milk delivered to houses and emptied the contents. By this means they were able to obtain a refund of threepence a bottle.

I have looked at some of these establishments where the machines were installed, but I was not pleased with what I saw. Under the Bill the Commissioner of Police is to recommend to the Governor that certain classes of machines are to be prohibited. The Commissioner of Police should be given some discretion in implementing this legislation.

I heard on television a report that a document tabled in this Parliament indicated that child delinquency in Western Australia was increasing. It is our duty as members of Parliament to keep child delinquency down, and we should give the Commissioner of Police sufficient power to do that, if we want the State to be run properly. I suppose that 95 per cent. of the police officers in this State are persons in whom responsibility can be placed.

I also read in the newspaper today about encouragement being given to the horse-racing industry. Horse-racing is an old sport, but personally I do not believe in gambling on horses. It amazes me that gambling takes precedence over other features on the radio on Saturdays. If one turned on the radio on Saturday, one would hear little else but racing commentaries. Apparently both the Commonwealth Government and the State Government encourage gambling on horse-racing. Still, horse-racing is an old sport, and as long as it is conducted fairly we cannot oppose it too strongly.

In the case with which we are now dealing, the children have to find money to play these machines. Generally they obtain the money by stealing from their parents or from other sources. I commend the Minister's action in introducing the Bill, and I support the second reading.

THE HON. J. J. GARRIGAN (South-East) [8.0 p.m.]: I reiterate the words of Mr. Bennetts and commend the Government for having introduced the Bill. We have only to take our minds back a few years to remember the one-armed bandits

which the Government, which I had the privilege of supporting, abolished. Today we have what are called amusement arcades and suchlike which are used for gambling by the teenagers. I say that without fear of contradiction.

As Mr. Bennetts has said, there are such places in our area. A milk bar is established and installs these gambling devices. They may or may not be honestly run, but they are still gambling devices. We should not commercialise our teenagers, nor should we encourage child delinquency. Wherever there are pinball machines in Western Australia, there are child delinquents.

With those few remarks—I do not intend to make a long speech—I commend the Government and support the Bill.

THE HON. A. R. JONES (Midland) [8.1 p.m.]: Very briefly, I am going to speak in support of the Bill, and unlike Mr. Heenan I have had a little experience of these pinball machines in operation. I have seen both youths and girls operating them. I have been told on good authority that some of the clubs are using pinball machines as a means of gambling. I have not seen this myself but I have taken quite a bit of notice of one particular place which I happened to visit one night to obtain a cool drink.

There were two pinball machines on the premises around which were wiggies and bodgies, or whatever we like to call them. They were all gambling. I walked quietly over and stood alongside them while I drank my bottle of cool drink. They told me that if they hit the top of various numbers on the machine and obtained a total of so many—it could be 1,000, 5,000 or 10,000—they would collect a certain amount from the proprietor.

I am very keen that this Bill should receive the support of everyone in the House. I feel that we can do no better than leave the matter to the judgment of the Commissioner of Police. We certainly must have that confidence in the members of the Police Force. After all any policeman, before he takes the matter to the sergeant, and the sergeant before he takes it to the inspector, has to be on sound ground. Certainly the commissioner would not take the matter to the Minister unless he were sure of the facts, and the Minister would not go to the Governor unless he were sure of the facts.

So I feel on all counts that this Bill has everything to commend it, and I do trust it will nip in the bud some of the mistakes which might be made by the younger people of today.

THE HON. F. R. H. LAVERY (West) [8.4 p.m.]: I have mixed feelings in regard to this Bill. I am completely opposed to pinball machines which are used entirely for gambling, but there are other machines which provide games of pleasure.

One of the reasons I rise to speak is because of an experience I had during a trip through the Orient this year. I did not see so much of these machines in Singapore or Penang, but there were many in Manila and thousands of them in Tokio, Nagasaki, Kobe, and many other places in Japan.

The number of young and old people who used to congregate around these pinball machines was simply fantastic. In Japan it appears that gambling is absolutely tied up with pinball machines. Some of the shops which house these machines are very elaborately set out. They are really show places. It was snowing when I was there and the heaters were on and everything was available for the comfort of patrons.

The system was that a person paid so many yen and in return received a bowl of steel balls. The size of the bowl depended on the number of yen paid. I watched a particular man for 20 minutes. All he was doing was pressing a lever and as fast as he did this these steel balls would come down. He had one draw but instead of receiving so many yen for it he just obtained another bowl of balls.

I was taken through the building and when I finally came back to him I ascertained that in three and a half hours he had had one draw. He had spent 13,000 yen, and 1,000 yen equals £1. He could speak English reasonably well and he told us that that was the smallest amount he had lost during the seven nights he had been there. He pointed out others, including old women, who had lost even more.

We then spoke to the person in charge of the establishment and were told that they had 14 cashiers who were tying bags and bags of money as though it was lollies. They were selling these balls as fast as they could but there were still queues of up to 100 people waiting outside the shop for a vacant machine. This place had 100 machines but there were other groups of shops which had 1,000 machines and others with 700 and 400.

These machines were not so obvious in Hong Kong but in Manila there were thousands of them. They are as much one-armed bandits as the machines which were abolished in New South Wales and here.

The Hon. H. C. Strickland: Like the totalisators!

The Hon. F. R. H. LAVERY: Yes; they are becoming one-armed bandits, too; but I am not speaking about them at the moment. Mr. Nimmo handed me some letters from a lady who had some of these machines in her shop at Rockingham. She had to have the police call on her because the undesirable types were congregating at her shop. Finally the police cancelled the permit for Sundays because Sunday seemed to be the day when most of the trouble occurred.

I do believe this Bill could hurt a lot of innocent people who have machines which are not gambling machines but machines which provide music and other types of enjoyment.

The Hon. G. Bennetts: The commissioner would not touch those.

The Hon. F. R. H. LAVERY: That is exactly why I rose to speak. I want the Minister to assure me that that will be the position. I also want a clearer definition of the machines which are to be banned and those which will be permitted. Unless I gain this information before the third reading stage, I will not support the Bill. However, because of what I have seen of these machines, particularly in other countries, I would hate to think that I voted against a Bill and these machines were allowed to remain here.

After all, we cannot blame the proprietors of the machines and those who have them in their shops. But we must protect some people from themselves. I have heard it said that if we stop some people from playing these machines they will find another way of gambling. But it is just the same as if we were to hang some sausages in front of a butcher's shop and tell dogs not to touch them. It should be made impossible for these people to gamble on this type of machine.

I have an open mind on this Bill, but I would like the Minister when replying to give us a definition of the machines that are to be banned. I have the greatest faith in the present Commissioner of Police—in fact we are mates, both belonging to the same football club—but as time goes by others will take his place.

THE HON. A. F. GRIFFITH (Suburban—Minister for Mines) [8.12 p.m.]: This is a problem which is Australia-wide. I understand that in New South Wales poker machines are taxed thereby providing a very lucrative form of income for the Government. However, I hope the time will never come when that situation prevails in this State.

I am very pleased to have heard the constructive approach to this legislation. It contrasts with the hot-and-cold attitude adopted in another place. If we can believe the Press articles, the Leader of the Opposition is reported as saying that he did not know whether the Government was going to try to prevent the fool from parting with his money, and he did not think the legislation would achieve very much at all. I hope he is wrong.

The Hon. H. C. Strickland: He supported the legislation.

The Hon. A. F. GRIFFITH: Yes, he did. It is a truism that a fool and his money part very easily, but it is our responsibility to accept the challenge and protect juveniles from their folly. If this Bill does no more than assist to do that, it will have gone a long way.

I am somewhat surprised at the questions raised by Mr. Heenan. I have here a copy of the Police Act and contained in all its sections are provisions for penalties for misdemeanours and crimes. From time to time we have made amendments to that Act after recommendations have been received from the Commissioner of Police. His reasons for asking for the amendments have been registered here and have been accepted by members as have been the amendments themselves.

Mr. Heenan states that the legislation is probably necessary. I say it is very necessary. The man who conducts a legitimate form of business need not fear any consequences, but the man who is not conducting a legitimate form of business is the one who need fear the consequences of this legislation.

This overriding power of which Mr. Heenan speaks is not an overriding power that has been given to the commissioner. All we have to do is to read the Bill, and in clause 2 we see the following:—

The Governor may, subject to subsection (3) of this section, from time to time, on the recommendation of the Commissioner of Police . . .

We all know how to interpret what that means. The commissioner recommends to his Minister; the Minister has a look at it, and if he thinks fit he brings the recommendation to Cabinet; Cabinet has a look at it, and if it approves Executive Council gives authority for it by a proclamation. It is erroneous for the honourable member to say that the Commissioner of Police is to be the sole judge, and that we are handing him a blanket control. We are not doing that at all.

However, I would not be unhappy about handing over to the Commissioner of Police, subject to the Minister—and I am acting Minister for Police for the time being, I regret to say, owing to the circumstances—control of a situation like this, because it is not the only type of thing that he controls; and he is the best judge.

The Hon. H. C. Strickland: This is only to give him the power to control.

The Hon. A. F. GRIFFITH: Yes. And who is a better judge than the Commissioner of Police, together with his staff of trained officers? I could relate some of the things that are on the files in front of me and the contents of the files would be very revealing.

The Hon. G. Bennetts: I could tell you a lot of things, too.

The Hon. A. F. GRIFFITH: I would go so far as to say that there are hundreds of machines in Perth and the turnover each year is measured in many thousands of pounds. I repeat: We cannot protect the fool from his folly, but it is one of our functions to protect juveniles from their follies, and if we can do anything along those lines we should do it.

As regards the point raised by Mr. Heenan about it being a legitimate business, some of these machines may be all right in one place but may be most obnoxious in another, and in the circumstances the Commissioner of Police, in making his recommendations to the Minister, would exercise discretion, which he is accustomed to doing in the exercise of his duty.

The Hon. R. F. Hutchison: He will exercise discretion.

The Hon. A. F. GRIFFITH: Of course he will. He is trained to do that because of his avocation in life. A man in his position, and the officers he has under him exercise discretion.

The Hon. R. F. Hutchison: Does that mean that a man who has one of these machines which is not used as a gambling device will not have it interfered with?

The Hon. A. F. GRIFFITH: As has been said, a machine in one place may be all right, but in another place it could be most obnoxious, and the commissioner, in the course of his duties, will be the judge of that and will make recommendations accordingly.

I gather that Mr. Heenan would like to see a Select Committee appointed to inquire into this problem. I asked him by way of interjection how long he thought it would be before Parliament could obtain the benefits of the Select Committee's investigations, and, of course, he told me, as we all know, that Parliament will sit again some time in July next year—in about eight months' time. The Address-in-Reply debate will occupy its usual time, and after a couple of months we will get down to dealing with legislation. So it would not be eight months but 10 months before a Bill could be introduced following on the investigations of a Select Committee.

I oppose any move for a Select Committee on the ground that a great deal more damage could take place during the period which would elapse before legislation could be introduced. I oppose it on another ground, too: Are we going to appoint a Select Committee to inquire into the functions of every amendment we want to make to the Police Act? Are we going to adopt that attitude in regard to amendments to the Police Act which are designed to put a stop to practices of this nature, or any other practice which the Government of the day considers should be dealt with on the spot?

Mr. Ron Thompson brought this matter forward and I was able to tell him that it was receiving attention. I do not think he would be happy to see this legislation delayed in that way; I do not think Mr. Bennetts would be happy to see it delayed; and I do not think Mr. Lavery would be happy, either.

The Hon. A. R. Jones: I would not.

The Hon. A. F. GRIFFITH: I do not think any of us would be happy to see unnecessary delays by the appointment of such a committee of inquiry. Mr. Lavery asked me for an undertaking that before the Bill was read a third time I would give him a definition of the machines that will come under the provisions of the Bill.

The Hon. F. R. H. Lavery: I want the dangerous machines defined because I know some people will lose money over the installation of some of these machines.

The Hon. A. F. GRIFFITH: I am not going to attempt to give the honourable member such an undertaking.

The Hon. F. J. S. Wise: They were gambling on their investment, anyway.

The Hon. A. F. GRIFFITH: Yes. I will not try to give any such undertaking, because we cannot be concerned with the investments that people put into business that is not legitimate. We can be concerned with investments in legitimate business.

The Hon. F. R. H. Lavery: It is legitimate.

The Hon. A. F. GRIFFITH: Legitimate business will find its way into the clear because of the recommendations that the commissioner and his officers will make. Business that is not legitimate will be reported, as it is intended to be reported, under the terms of the Bill.

The Hon. F. R. H. Lavery: Until this Bill becomes an Act it is legitimate business because there is nothing to stop it.

The Hon. A. F. GRIFFITH: That is not right, because section 89 of the Police Act provides that a prosecution can be launched provided the police can get the evidence, but the evidence is very hard to get. This Bill will enable the matter to be taken under control. I do not know how long I will be acting as Minister for Police, but while I am I will confer with the commissioner upon this point and I will watch the progress of the legislation with the greatest care possible. I commend the Bill to the House.

Question put and passed.

Bill read a second time.

In Committee

The Chairman of Committees (The Hon. W. R. Hall) in the Chair; The Hon. A. F. Griffith (Minister for Mines) in charge of the Bill.

Clause 1 put and passed.

Clause 2: Section 89A added—

The Hon. A. F. GRIFFITH: As Mr. Strickland so kindly pointed out, although it had been brought to my notice, there is what can be described as a typographical error in line 8, page 2, of the

Bill. The word "prohibit" should appear after the word "proclamation," and not in the order in which it appears now. I ask that it be regarded as a correction to be made by the Clerk.

The CHAIRMAN (The Hon. W. R. Hall): The Minister has asked that this alteration be made by the Clerk and the question is that leave be granted for the Clerk to make the necessary alteration.

Leave granted.

The Hon. E. M. HEENAN: I move an amendment—

Page 2, line 7—Insert after the word "prohibit" the words "or limit".

It will be noted that I am asking for these words to be added in line 7 after the word "prohibit" when the necessary correction has been made to what has been classed as a typographical error. If the amendment is agreed to it will give the commissioner a little more discretion.

The Hon. G. C. MacKinnon: How would you prohibit the use of these machines?

The Hon. E. M. HEENAN: If the words "or limit" are added they will not derogate from the commissioner's powers, but they will have the effect of giving him more elasticity in handling the situation. The words might not accomplish very much but they will not take any powers away from him and will enable him to do something more in deserving cases.

The Hon. F. R. H. LAVERY: There is an establishment at Rockingham in which the police prohibited the use of these machines only on a Sunday. The proprietress is allowed to use them on any other day. Will the amendment cover that situation?

The Hon. E. M. HEENAN: The words "or limit" would give the commissioner discretion to prevent their being used on a Saturday or Sunday. He could perhaps say they could only have one machine; but it would not prevent the commissioner from prohibiting them altogether.

The Hon. A. F. GRIFFITH: This puts me in mind of the speed limit being 40 miles an hour but of motorists being allowed to go faster than that. I ask the honourable member to look at subclause (2) which says the Governor may from time to time by proclamation vary or cancel any proclamation. If this is evil, it is evil from Monday to Sunday. We cannot have it an evil on Monday and not on the other days. Because this has become such a social evil a conference of commissioners recommended certain action. I know there are certain things which one does on other days which one does not do on Sundays, but that is no analogy as far as this is concerned. If a man had 50 slot machines, the commissioner could recommend that any one be prohibited. I prefer to see the Bill as it is.

The Hon. H. C. STRICKLAND: The Minister is inconsistent. Paragraph (b) of proposed new section 89A says—

The use or possession in any place, class or classes of place of any slot machine, or class or classes of slot machine.

The Minister says if it is illegal on one day of the week then it is illegal on the other days of the week. To be consistent he must take that to its conclusion and say if it is illegal in one place it is illegal in all places.

The Hon. A. F. Griffith: Not necessarily.

The Hon. F. D. Willmott: It is illegal to drink beer on the street but you can take it home and drink it.

The Hon. H. C. STRICKLAND: I cannot see why there should be objection to the words "or limit" because they would fortify paragraph (b) which I have just mentioned. We all know that churches run bazaars and so on and they ask permission from the police to use certain appliances which may come under the provisions of this Bill. If it is a direct prohibition then it is a direct prohibition. Mr. Heenan's amendment could perhaps give the commissioner power to limit the use of these slot machines at certain times and in certain places. As the clause reads now it does not make sense. I support the amendment.

The Hon. A. R. JONES: This must be left elastic to refer to all classes of places, all classes of people, and all classes of slot machines. We must leave the sole power with the police to say whether a person is the right person with the right machine or not. It should be left with the police commissioner.

The Hon. R. F. HUTCHISON: I know nothing about pinball machines but I would ask what the position of a man would be if he just bought into a small business. Would he lose the machine and his capital? Would he have any protection? I am thinking particularly about a small businessman who approached me in this matter.

The Hon. G. C. MacKinnon: Is it not a fact that the people at whom this Bill is aimed are those who are knowingly breaking the law by gambling with certain machines?

The Hon. F. R. H. Lavery: It may not be. The law does not say that.

The Hon. G. C. MacKinnon: Let us take the case of a chocolate wheel where one buys 30 tickets for 1s., and then spins the wheel which eventually stops at a certain number. That is all right while it is used for charitable purposes and while no cash is changing hands. If money is changing hands and bets are being laid on it then the law is being broken. But the difficulty is to get evidence because both parties are breaking the law.

The same applies to any form of entertainment in this respect whether it be housie, euchre, or anything else. If the prize is just a pie-dish or something like that, and if the proceeds are collected for a charitable purpose, it is all right; but if large bets are made then of course it is gambling. It is as simple as that. In such cases I cannot see how limiting these practices will do any good. They must be banned altogether if the law is being broken.

The Hon. A. F. GRIFFITH: If there were a provision in the Police Act to cover this aspect, the Bill would not be before us. In a recent prosecution the magistrate in the lower court found for the Commissioner of Police because there was evidence of a pay-out, but on appeal to the Full Court the magistrate's decision was quashed. I have not got the whole of the background on this as had the Minister for Police, but I do know that people in legitimate businesses need not worry. If their business is illegitimate then it is a social evil.

The Commissioner of Police feels that these pinball machines are becoming a social evil and he is very concerned about them. Discretion will be exercised in the control of them, just as it is exercised by the police at all times. We should leave the Bill as it is. In reply to Mr. Strickland I would say that in a particular place these machines need not be an evil but they could definitely be evil in a different type of environment.

The Hon. F. R. H. LAVERY: I am opposed to any type of gambling that will bring pain, worry or delinquency to the State. However, as a member of Parliament it is as much my duty to look after the interests of the small shopkeeper as it is to look after the interests of the Kwinana oil refinery. The proposal contained in the amendment will give the Commissioner of Police just that little bit of latitude before he submits this matter to Cabinet, prior to a proclamation being issued.

It is my assumption that this Bill will be carried, but before it reaches that stage I want to reiterate that the small man is entitled to what support I can give him to protect his property.

The Hon. A. F. Griffith: Whether he breaks the law or not.

The Hon. F. R. H. LAVERY: Not necessarily when he breaks the law. I am given to understand that a man has purchased a business containing a number of these machines and he is afraid he will lose all the money he has spent on that place. If that man is not using these machines in an undesirable way—and this measure is trying to close the machines down—

The Hon. A. F. Griffith: It is not trying to close them down.

The Hon. F. R. H. LAVERY: I am not in favour of the person who tries to get every cold shilling or threepence out of the public for his own individual profit; and I am not prepared to vote for anything to make that possible.

The Hon. E. M. HEENAN: A few speakers have got away from the simple purpose of the words contained in my amendment. All I want to do is give to the Commissioner of Police the power to prohibit or limit. At the present time we are only giving him the power to prohibit. Mr. Jones said that I am out to take away the discretion of the commissioner. However, that is not my purpose at all. I am not trying to stop him from prohibiting. What I did say was this: If the commissioner sees some merit in a situation under this amendment he would have the power to prohibit or limit. That surely is not taking away his discretion; it is increasing it.

I think there is a place in Barrack Street where 24 or 30 machines are housed, and all the commissioner can do at the present time is to prohibit them. He has no discretionary power to say to that proprietor that he can have one, two, or three machines, which he considers to be harmless. But the amendment will make it abundantly clear that the commissioner has a discretionary power to limit. Everyone has made commendatory statements about the commissioner, and I wholeheartedly agree with them. He is a man in whom we have trust and with whose discretion and judgment we would all agree. Therefore, he should have the power to limit as well as prohibit.

The Hon. A. F. GRIFFITH: There is already a limit contained in the wording of the Bill, which says, "any slot machine." The Bill does not say "every slot machine." Therefore the argument put forward by Mr. Heenan falls to the ground. The limitation is contained in the structure of the Bill and if the proposed words are added they will not mean a thing.

The Hon. H. C. Strickland: They could in relation to time.

The Hon. A. F. GRIFFITH: I do not think so. I would add this: Mr. Heenan suggested it would be a good idea if we had a Select Committee to take eight or ten months to look into this matter before a Bill was brought to the House. Therefore, if in 10 months' time the commissioner finds he would do better with an Act containing the words "or limit," they can be inserted then.

The Hon. J. D. TEAHAN: I regard the addition of the words as being dangerous, particularly, say, in five years' time. It is also dangerous to endeavour to interpret what the word "limit" means. The commissioner is a man with plenty of integrity and judgment; and he has all the qualities needed for a man in his position.

Therefore, we should not water the measure down, because in later years it may be considered that we were half-hearted about this.

Amendment put and negatived.

The Hon. H. C. STRICKLAND: I move an amendment—

Page 2, lines 10 to 13—Delete all words from and including the word "or" down to and including the word "machine."

Paragraph "b" has not been explained, and nobody seems to be able to give an explanation. As far as I am concerned that particular paragraph does not make sense. We have been told it is necessary, but no reason has been given, and one has to guess why it is in the measure. If certain slot machines are illegal they should be illegal all over the State. Is it the intention of the Government to say they are illegal on a showground or at a fun fair, but that they are legal in some exclusive club? In the absence of any satisfactory explanation, I hope the Committee will agree to my amendment.

The Hon. A. F. GRIFFITH: If members who support this Bill do not want to see its purpose destroyed, they will not agree to the deletion of this paragraph.

The Hon. H. C. Strickland: Explain why it is there.

The Hon. A. F. GRIFFITH: I did explain it, but apparently the honourable member did not understand me. I said, and I repeat it, that a machine in one place need not necessarily be an evil, but in another place it could be. The machines and the places will be named or described in the proclamation.

The Hon. H. C. Strickland: Is not the rest unnecessary?

The Hon. A. F. GRIFFITH: On the contrary, the honourable member named the places. I would like to relate some of the evidence contained in this file. However, I will show it to the honourable member privately. The commissioner and his officers know which are the places. The commissioner knows there are some places of really ill repute. I will be glad to show the honourable member this file afterwards to give him some idea.

I hope the Committee will not agree to removing this subclause, because it will destroy the whole purpose of the provision. It will not give the commissioner the power with regard to the places from which the machine is to be prohibited.

The Hon. F. D. WILLMOTT: I cannot understand Mr. Strickland's reasoning that if a machine is prohibited in one place, it should automatically be prohibited in another. It all depends who is frequenting those places. One place could be frequented by juveniles and the

machine would be prohibited in that particular place. But in another place, where there are only adults, the machine need not be prohibited.

Mr. Strickland said this is something new. But it is done every day. It is illegal for me to go down to the corner and place a bet, but if I go on to the racecourse and place a bet it is quite all right for me to do so. It is illegal for me to drink a bottle of beer in front of my house, but if I take it inside my house it is quite legal. It might be better to use the word "harmful." A machine might be harmful in a place frequented by juveniles and not necessarily in another place. In my opinion the provision is perfectly clear.

The Hon. H. C. STRICKLAND: I am glad that I have heard some type of explanation, although I think it is an unconvincing one. I take exception when somebody knows the answers and will not explain them, and we have to force them to do so. I cannot agree with the Minister. His interpretation of the two sub-clauses is that the proclamation must state the machine and the place it is in.

The Hon. G. C. MacKinnon: Not necessarily, but it can.

The Hon. H. C. STRICKLAND: I am going by what the Minister said. The Minister said these limits were provided to prohibit the possession or use of any slot machines. Would not that same interpretation apply to any other place and any slot machine? However, I do not mind the provision remaining in the Bill; I merely wanted to get some explanation which is always denied us. With the permission of the Committee I will withdraw my amendment.

Amendment, by leave, withdrawn.

Clause put and passed.

Title put and passed.

Report

Bill reported without amendment and the report adopted.

Third Reading

THE HON. A. F. GRIFFITH (Suburban—Minister for Mines) [9.5 p.m.]: I move—

That the Bill be now read a third time.

THE HON. F. R. H. LAVERY (West) [9.6 p.m.]: I do not propose to allow this Bill to pass through the House without one further request to the Minister that before this Act is proclaimed the Commissioner—and I have not the slightest doubt as to his integrity—should, somewhere along the line, define those places, in order that it will give persons who possess these machines in their various businesses an opportunity to amend their ways and see whether some of the money invested in the machines could be saved.

THE HON. A. F. GRIFFITH (Suburban—Minister for Mines) [9.7 p.m.]: I can only say what I said before: I am not going to give any such undertaking. The machines which will come under the surveillance of the Commissioner of Police are, to the best of my knowledge, those which are creating an evil and are a public nuisance.

The Hon. G. Bennetts: That depends on who is running them.

Question put and passed.

Bill read a third time and passed.

BILLS (3): RECEIPT AND FIRST READING

1. Gas Undertakings Act Amendment Bill.

2. The Fremantle Gas and Coke Company's Act Amendment Bill.

Bills received from the Assembly; and, on motions by The Hon. L. A. Logan (Minister for Local Government), read a first time.

3. Mine Workers' Relief Act Amendment Bill.

Bill received from the Assembly; and, on motion by The Hon. A. F. Griffith (Minister for Mines), read a first time.

BILLS (2): RETURNED

1. Motor Vehicle (Third Party Insurance) Act Amendment Bill.

2. City of Fremantle and Town of East Fremantle Trust Funds Bill.

Bills returned from the Assembly without amendment.

RESERVES BILL

Second Reading

THE HON. L. A. LOGAN (Midland—Minister for Local Government) [9.11 p.m.]: I move—

That the Bill be now read a second time.

In moving the second reading of this Bill, I desire briefly to recount the proposals contained in its several clauses covering the reserves dealt with during the past 12 months, and since the introduction of the Reserves Bill of 1960. Full details of the alterations recommended to Parliament are contained in the papers and plans tabled in this Chamber.

The first reserve to be dealt with appears in clause 2 of the Bill which provides for excision of portion of Class "A" Reserve No. 833 at Dale River, West Beverley, for the purpose of completing an exchange with Mr. L. S. Bennett for riverside land more suitable for reservation.

Clause 3 recommends the proposed amendment of the purpose of Class "A" Reserve No. 24365 at Binginup Beach in

the Shire of Harvey, to include the purpose of "Caravan Park." Clause 4 is for the proposed amendment of the purpose of Class "A" Reserve No. 23515 at Bridgetown from recreation to conservation of flora.

Clause 5 seeks the cancellation of Class "A" Reserve No. 6161 at Catterick siding to reserve the land as a timber reserve under the Forests Act, 1918. Clause 6 proposes excising an area from Class "A" Reserve No. 7406 to provide a townsite at Cowaramup Bay. Clause 7 will enable the re-inclusion in Class "A" Reserve No. 17331 of an area previously excised from this main University reserve for inclusion in a proposed site for a new teachers' training college which is to be located elsewhere.

Clause 8 authorises the Governor to approve of using for another purpose land which was excised from Class "A" Reserve No. 17375 for the purpose of a teachers' training college site. Clause 9 would provide authority for the City of Fremantle to surrender to the Crown, Fremantle Lot 392 which is held in trust for the purpose of a public park, reserve, or garden, but which has been used as a school site.

Clause 10 seeks to amend John Curtin High School Reserve No. 17035 to re-include therein Fremantle Lot 1817 and an adjoining strip of land now numbered as Lot 1871 which will give the school site a frontage to the proposed extension of Ord Street.

Clause 11 denotes the cancellation of Reserve No. 1922, and the revestment of Fremantle Lot 1368 with the intention that after resurvey to include additional land, a new reserve will be declared and vested in the City of Fremantle for municipal purposes.

Clause 12 excises Geraldton Lots 845 and 846 from Class "A" Recreation Reserve No. 22382 to make the lots available to the Methodist Church.

Clause 13 includes the alteration of the purpose of Class "A" Reserve No. 25307 at Kalbarri from "Public Utility" to "Recreation and Parklands," and also authorises the Governor to excise portion to provide a road two chains wide and for portion isolated by the road to be used for town-site purposes.

Clause 14 sets out an excision of portion of Class "A" Reserve No. 21231 at Mandurah to make the land available free of trust to the Shire of Mandurah so that the low-lying land may be reclaimed and subdivided for residential sites. The proceeds of the sale are to be spent in developing the remaining portion of the reserve for recreation purposes.

Clause 15 specifies an amendment of the purpose of Class "A" Reserve No. 24392 at Millstream Station to "National Park and Conservation of Indigenous Flora and Fauna" with a view to protecting certain indigenous timber, particularly cadjuput.

Clause 16 shows an excision of portion of Class "A" Reserve No. 20564 adjoining the railway station at Morawa, which has been included in the bowling club site for which a separate reserve will be created. A resurvey of the reserve as Morawa Lot 152 involves another slight amendment to include additional land.

Clause 17 cancels Reserve No. 250 at Northampton, which was set apart in January, 1877, for a site for a Good Temp-lars' lodge but was not used and is no longer required. The land is to be re-vested in the Crown for resubdivision into residential sites.

Clause 18 authorises the amendment at a later date of Class "A" Reserves Nos. 3421 and 3495 to excise portions for widening of Parliament Place and Havelock Street, a matter which also involves the closure of portion of Harvest Terrace as is referred to in clause No. 12 of the Road Closure Bill.

Clause 19 is for the purpose of excising from Class "A" Reserve No. 22779 at Rockingham a portion for the widening of the Esplanade to make available a site for a junior yacht club to be established by the Cruising Yacht Club of Western Australia, its main club site having been established in the central part of Rockingham. The club wishes to isolate its junior members from the licensed premises.

Clause 20 requests the cancellation of Reserve No. 2282 at Toodyay and authorises the trustees of the public education endowment to sell the land free of trust to the Shire of Toodyay for the purpose of establishing a "Museum of Historical Interest" involving restoration of the old gaol buildings on the reserve.

And finally, in clause 21 the approval of Parliament is sought for the excision from Class "A" Recreation Reserve No. 18325 at Inglewood an area of about 4 acres fronting Dundas Road for inclusion in the contiguous Reserve No. 24134 which is set apart as a site for mentally retarded children. The latter reserve is to be amended to excise about 7 acres 2 roods 26 perches for a proposed new reserve for a hospital site for the Home of Peace.

The circumstances surrounding the several proposals contained in this Bill, as affecting certain reserves and other lands, have been given careful consideration by the department and made the subject of this Bill, which is supported by the Minister for Lands and presented to members with a request for their concurrence.

The Hon. J. G. Hislop: Does the reference to the site for the Home of Peace mean that land is to be relinquished, or that land will be added to the reserve.

The Hon. L. A. LOGAN: Land will be added.

The Hon. F. J. S. Wise: What about clause 22?

The Hon. L. A. LOGAN: There should be a reference to clause 22 which deals with Reserve No. 24309, Cockburn Sound. The classification as of Class "A" of Reserve No. 24309 at Cockburn Sound is to be cancelled, with the intention that the Governor may amend the reserve in such manner as he may approve to excise portion between the groyne and the break-water for the purpose of industrial sites for shipbuilding.

Upon excision of the area to be set apart for industrial purposes, the balance of the reserve shall again be classified as of Class "A" in trust for the purpose of recreation and camping.

THE HON. F. J. S. WISE (North) [9.19 p.m.] The Bill is one which comes annually before both Houses of Parliament in conformity with section 31 of the Land Act. Because the remarks I am about to make are so appropriate to section 31 of the Land Act, I intend to read it—

Whenever the Governor has reserved or may hereafter reserve to His Majesty any lands of the Crown for the purpose of parks, squares, or otherwise for the embellishment of towns, or for the recreation or amusement of the inhabitants, or for cemeteries, or for any other public purpose, the Governor may by proclamation, and subject to such conditions as may be expressed therein, classify such lands as of Class A; and if so classified, such lands shall forever remain dedicated to the purpose declared in such proclamation, until by an Act of Parliament in which such lands are specified it is otherwise enacted.

The Bill just introduced meets all the requirements of that section of the Land Act in connection with the 22 excisions from Class "A" reserves, or reserves which are vested in some authority and which require some statute passed by Parliament to make any alteration thereto.

I regret very much that we have not found in this Bill provision for the excision of portion of Class "A" Reserve No. A25373 (National Park), comprising 195 acres, or thereabouts, lying between the northern boundaries of the Sussex locations and the Scott River, which excision is included in the Scott River agreement. I think the Government is not obdurate in this matter; it is distinctly obstinate.

It is not, in my view, irrespective of Crown Law opinion, conforming with the requirements of the law; nor is it conforming with what has been acceptable parliamentary practice, and a necessity, over the past 60 years.

The Hon. H. K. Watson: Hear, hear!

The Hon. F. J. S. WISE: Almost hidden away—and I challenge any member to find it within 60 seconds; and I will give him

the number on the file: it is Bill No. 39—is the reference to an “A”-class reserve in the Bill ratifying the Scott River agreement; and in that Bill is the provision which the Government is satisfied excises portion of an “A”-class reserve. It has been done in a loose and unsatisfactory manner, I would say, both as to the needs of the Lands Department and in respect of parliamentary requirements.

I feel so keenly about this situation, having drawn attention to it during the debate on the Iron Ore (Scott River) Agreement Bill, that if I am alive and still a member of Parliament next session, I will then move in this chamber to make impossible in the future such an action as this by any Government.

The wording of section 31 of the Land Act provides that these areas are sacrosanct until amended by an Act of Parliament—not by a fiddling little part of a clause in a schedule to a Bill which becomes an Act. These areas are, as I have just said, sacrosanct until amended by an Act of Parliament in which they are specified.

In my view, we cannot interfere with Kings Park or any other national park or any “A”-class reserve unless the park or reserve is dealt with in the Reserves Bill.

I intend, and I give notice of intention at this stage—a long way off—that if I am alive next year I shall move to add to section 31 of the Land Act the words, “until such amendments appear in an Act of Parliament normally presented and dealing with roads and reserves at the end of each session of Parliament.”

I repeat that in this matter the Government is satisfied that the arguments raised in this Chamber—they were initially raised by me—can be just tossed aside. I have consulted eminent legal authority since the Crown Law opinion has been expressed, and I am advised that the attitude of the Government is wholly wrong.

The PRESIDENT (The Hon. L. C. Diver): I draw the honourable member's attention to the fact that the matter he is speaking about now is not referred to in the Bill under review.

The Hon. F. J. S. WISE: I shall tie that up with the fact that section 31 of the Land Act makes this Bill implicit; it makes it necessary.

I would not in any way willingly contravene Standing Orders or go against your desire or decision, Mr. President; and I respect your ruling. I finish on this note: that in this Bill a clause should have appeared to excise whatever land is required to give to the Western Australian Mining Company freehold land from the national park near Augusta. This is the Bill to make sure that that agreement is valid and unchallengeable and that the freehold of a portion of a “A”-class reserve is granted as is intended.

In all respects, except for one clause, I support the Bill. I do not intend to delay its passage. I know that some members have particular comment to make on one clause. At this stage, therefore, having expressed myself clearly, I hope, in regard to what is required in respect of amendments to boundaries of Class “A” reserves, I support the measure.

THE HON. F. D. WILLMOTT (South-West) [9.27 p.m.]: I have had a careful look at the Reserves Bill and the plans which have been tabled. Like Mr. Wise, I fail to see any reference in it to the reserve at Scott River. When I spoke to the Iron Ore (Scott River) Agreement Bill, I said that I expected to see the reserve mentioned in this measure.

The PRESIDENT (The Hon. L. C. Diver): I draw the honourable member's attention to the fact that the Bill before the House specifies certain reserves, and that the reserve to which the honourable member is referring is not included in the Bill.

The Hon. F. D. WILLMOTT: That is so; and I am deploring the fact that it is missing. I feel it should have been included.

THE HON. F. R. H. LAVERY (West) [9.28 p.m.]: I support the two previous speakers; and I am not raising this matter as a challenge to the Minister. I believe the Minister must be disappointed because when the debate on another Bill was proceeding, he said he anticipated that reference to the particular reserve would be included in this measure which is before us tonight. I am sorry that there is no reference to it in the Bill; and I hope that there will be further legislation dealing with the matter.

THE HON. A. F. GRIFFITH (Suburban—Minister for Mines) [9.29 p.m.]: I am sorry I only came in at the tail end of the remarks made by Mr. Wise. I think I can offer an explanation. I referred to this matter in Cabinet a short time ago, and in talking to the Attorney-General I spoke along the lines of the debate which had taken place in this House concerning the necessity to have the Scott River land included in the Reserves Bill.

His comment to me was, “It has already been put into one Bill, so I do not see why we should put it into two.” The conversation that followed showed that it had been done before and it was not possible to put it into this Bill. However, the Minister for Lands has assured me that it will be inserted in a Bill that will be introduced next session. Nevertheless, it is already contained in the Scott River legislation. I am sorry it is not in this Bill, but that is the position.

Question put and passed.

Bill read a second time.

In Committee

The Chairman of Committees (The Hon. W. R. Hall) in the Chair; The Hon. L. A. Logan (Minister for Local Government) in charge of the Bill.

Clauses 1 to 18 put and passed.**Clause 19: Reserve No. 22779 Rockingham—**

The Hon. H. C. STRICKLAND: This excision proposes to make provision for a rather small area of land in a central position at Palm Beach, Rockingham, and the reason for the excision is to grant the land to a junior yacht club. Some few years ago the Rockingham Shire Council proposed to grant a much larger area of land in the same position to the Cruising Yacht Club of W.A., and the members of this Chamber representing the Fremantle district conferred with the Minister for Lands at the time, and finally the Rockingham Shire Council decided that such a large area on the beach frontage at Palm Beach should not be denied use by the public.

I mentioned in this Chamber recently that it was deplorable to see large portions of our beach front being set aside for the establishment of industrial organisations or for other purposes.

Almost every member is acquainted with the area in the vicinity of Palm Beach, Rockingham, and I think they will agree that it is one of the few beaches close to the metropolitan area where children can bathe in safety. It is crowded every summer because it is such a safe and excellent beach. Therefore, I rather regret that even this small area of land is being excised from the beach frontage at that point.

There are ample locations along the foreshore in that area that would provide adequate accommodation for any number of yacht clubs, but which are unsuitable for children who go bathing. I know that the senior yacht clubs have deep draft boats and require fairly deep water for the launching and mooring of their craft, but the junior section of the yacht club uses shallow draft boats, and I believe that that section could have selected a position, either further south or further north along the beach, without interfering with that part of the beach which is safe for children.

No doubt the Bill has progressed too far to do much about it now, and I do not intend to vote against the clause, because arrangements have been finalised to a considerable extent. Nevertheless, I hope that in future details of similar excisions of land will be provided to Parliament early in the session where such excisions take away land from the public to be used for private purposes; because if that is done action could be taken at an earlier stage of the proceedings to forestall

such moves. I therefore hope the Minister will convey my view to the Minister for Lands.

The Hon. F. R. H. LAVERY: Mr. Strickland failed to mention one point in connection with this piece of land. Mr. Davies, in company with several other people and myself, was present at the conference that was held at that time in regard to the excision of this land. To its everlasting credit the Cruising Yacht Club built its clubhouse well back from the foreshore.

The agreement reached by the delegation was subject to one condition; namely, that the general public should have free access to a strip of land one chain wide above high water mark. It was realised that slipways for boats which had to be taken to and from the water would cut across the path of people using the beach, and it was arranged, if it were possible, for the slip rails to be put aside at certain times.

From the map relating to this particular excision of land I am unable to determine whether it has been provided that the general public shall have free access to a piece of land one chain wide. Mr. Strickland has now signified to me that it is so provided, so I am quite satisfied on that point.

Clause put and passed.**Clauses 20 and 21 put and passed.****Clause 22: Reserve No. 24309 Cockburn Sound—**

The Hon. R. THOMPSON: I intend to vote against this clause. I am sorry that the Minister in his second reading speech failed to mention clause 22 until he was prompted to do so.

The Hon. L. A. Logan: I was not prompted at all. I was looking for the Bill because it was not on the notice paper.

The Hon. R. THOMPSON: I beg the Minister's pardon. I intend to vote against this clause because, on the 10th of July, 1957, this land referred to in Cockburn Sound was vested in the Cockburn Shire Council. I have a document here, signed by the Governor, which states—

... shall vest in and be held by the Cockburn Road Board in trust for the following objects and purposes (that is to say) recreation and camping or other purposes for which the land is reserved, with power to the said Cockburn Road Board, subject to the approval in writing of the Minister for Lands being first obtained, to lease the whole or any portion thereof for any term not exceeding 21 years from the date of the lease, subject nevertheless to the powers reserved to me by section 37 of the said Act.

Since that date the Cockburn Shire Council has exercised its rights by granting various organisations leases on this reserve. The first lease was granted to the Small Boats Association. That is an association

of fishermen, the members of which come from far and wide to Cockburn Sound to launch their boats to engage in fishing. In order that suitable arrangements could be made for the launching of boats in this area, it was necessary for the association to seek approval from the Harbour and Light Department to build a loading ramp, and this has been put into use as such. The next lease was granted to a go-kart club.

This area comprises approximately 116½ acres and the portion that is to be taken out of this reserve to be leased for ship-building purposes is shown on the map. Travelling along the coast road to Rockingham one will notice a small groyne past Woodman's Point, which is frequently used by fishermen. That is the southernmost part of the area to be taken out of the reserve. It extends in a northerly direction to the small breakwater.

In the days of the construction of the Henderson Naval Base, approximately four and a half acres of this land was quarried to beach level. That is the only flat portion and the only portion with access to a sandy beach; and it is the only portion which can be used for swimming.

If we examine the coastline from South Fremantle southwards we will find that the construction of the fishermen's harbour has taken away a considerable amount of beach which had been used by the residents of and visitors to Fremantle. South Beach, except for a stretch of 150 yards, is not suitable for children's swimming, because of the dredging undertaken along the Success and Parmelia Banks. This took away the natural buffer and as a consequence much of South Beach disappeared.

The area from South Beach to Robb Jetty is classified as an obnoxious trades zone and people cannot swim there even if they wanted to. From Robb Jetty southwards there is a power station, and that area is not open to the public. Approximately two miles further south there is a narrow strip known as Coogee Beach, and alongside is the magazine jetty which is held by Elder Smith and Co.

Woodman's Point is a quarantine station and this area is accessible to the public only during week-ends. During the week the gate is locked. The next strip of beach along this coastline is the one I mentioned earlier.

If this clause in the Bill is agreed to there will be no right of appeal against the cancelling of this reserve. There is a very small patch of beach at the caravan park south of the Naval Base Hotel. From the Naval Base Hotel to the alumina plant site, the area is not suitable for swimming. The next stretch of beach is to be found close to Rockingham.

I referred to the establishment of a go-kart club to which a lease has been granted. Negotiations between the club and the Cockburn Shire Council commenced on the 23rd November, 1960. The

club asked for the lease of a piece of land in the Cockburn road district, for the purpose of building a track. An agreement was duly signed. The following letter dated the 14th August, 1961, was addressed to Messrs. Solomon & Clarke, solicitors for the club:—

At the last meeting of my Council lease as submitted between the Council and the Tiger Go-Kart Club (Inc.) was approved.

The lease is accordingly returned for the necessary action.

E. L. Edwards,
Shire Clerk.

On the 29th August, 1961, the shire clerk wrote to the Minister for Lands as follows:—

Enclosed please find a copy of a Lease between the Tiger Go-Kart Club (Inc.) and this Council for a term of ten (10) years.

Your approval as required under the vesting of this Class "A" Reserve is now requested.

The Cockburn Shire Council, under the powers conferred on it in 1957 when this reserve was vested in the council, leased a piece of land to the Tiger Go-Kart Club. Since that time the club has constructed the finest go-kart circuit in Australasia. American visitors, as late as last week, stated that this track was equal to any in the U.S.A., or in the world, yet the track is only half developed.

From a meagre beginning the club has built up a facility of which the citizens of this State should be proud. The following is the advice I received from the club:—

Preliminary negotiations and discussions between the Cockburn Road Board and Tiger Go-Kart Club (Inc.) commenced in October, 1960.

On the 23rd November, 1960, the Tiger Go-Kart Club (Inc.) formally made application for leasing of the area of approximately five (5) acres of "A" class reserve for the construction of the race track.

On the 14th December, 1960, the Cockburn Road Board approved of the lease with certain conditions to be carried out, one of which was that the Tiger Go-Kart Club become an incorporated body. The Tiger Go-Kart Club immediately put the matter of becoming incorporated in the hands of their Club solicitors.

On the formalities were finalised and the Crown Law Department gave approval to the incorporation. On the 1st February, the Tiger Go-Kart Club commenced preliminary clearing and bulldozing the area. The track was graded and formed up, gravel carted on to the circuit and after consolidation the 620 yard x 15 ft. wide circuit was bitumen sealed. Cyclone perimeter fences and gates

were erected, internal public safety fences installed, kitchen block, control centre, well pump engine and reticulation, brick toilet block, all have now been erected.

After the formality of the Tiger Go-Kart Club becoming an incorporated body, the Cockburn Road Board had the lease necessary drawn up. After perusal and instruction from both legal advisors of the Tiger Go-Kart Club and the Cockburn Road Board, the lease was agreed to and formally signed by the responsible persons of both parties on the

I have already given the date as the 14th August, 1961. To continue—

The area today at Cockburn has greatly enhanced the appearance of the location, as well as providing a venue for a growing sport in the motoring world. On the weekend of November 4th and 5th, 1961, the State Championships were conducted on this site. There were one hundred and seventeen (200) entries from all over the State representing 36 clubs. Entries were received as far afield as Northampton, Kellerberrin, Borden, Albany, Manjimup, and Bunbury. It would be completely unfair and unrealistic to now re-gazette the area for other purposes. The facts are that here is a growing sport with virile organisers who are genuinely helping themselves provide a venue for their racing, at the same time improving the appearance of the otherwise untidy scrub area.

If it is essential for extra area for the purpose now presented to Parliament, it is pointed out that there is two miles of coastline to the south of the groyne area. This area would not interfere with any existing arrangements made previous to this motion. This two miles of coast line could easily be shaped and contoured to suit any shipping industry proposed.

Hereunder is the costing of developing the Tiger Go-Kart track to its present stage:—

	£
Bulldozing and levelling area	800
Forming, laying and sealing track	2,200
Kitchen block	400
Timing box and control centre	500
Cyclone perimeter fencing and gates	475
Internal safety fence	300
Well, pump, engine piping for reticulation	300
Tank stand and tank	85
Toilet block (brick with septic tanks)	925
	<hr/>
	£5,985

The financing of this project by the Tiger Go-Kart Club has been by debentures and bank overdraft guaranteed by certain club members.

The following are the points raised by the shire clerk of the Cockburn Shire Council in support of the case for the retention of the area as a Class "A" Reserve between the groyne and the breakwater:—

1. On the southern end there is approximately two hundred yards of sandy beach.
2. Between the Groyne and the breakwater there is approximately 550 yards of ground nearly level with the sea shore and extending eastward to the cliff face a distance of 200 yards.
3. These are the only portions of the coastline in this reserve that are accessible other than climbing down a cliff face.
4. The area between the Groyne and the Breakwater is level with the sea, because of the fact that it was extensively quarried some years ago.
5. The Tiger Go-Kart Club by expenditure and voluntary labour have built up assets to the value of £3,000 on the area between the Groyne and the Breakwater.
6. On the 29th August, 1961, application was made to the Minister for Lands for lease approval to the Go-Kart Club. No reply has been received to such application, although a signed lease between this Authority and the Go-Kart Club was enclosed.

I would like members to take note of that point.

Sitting suspended from 10.1 to 10.22 p.m.

The Hon. R. THOMPSON: I had dealt with six of the nine points raised by the Cockburn Shire Council. The seventh and eighth read as follows:—

7. Something must be preserved for posterity for the people of this shore line.
8. Although the lease extends for 2 miles 200 yards along the shore line, only the small sections as referred to above are readily accessible for recreational purposes.

I would like the Minister to note that, because I think his map is wrong as is his conception of the whole area. The ninth point reads as follows:—

9. Small Boat Owners' Association have constructed a ramp at the Groyne and this is extensively used for small boats. The Council have agreed to recommend a lease of an area to be used for parking of cars of people using the boat ramp.

Last Wednesday night an application was submitted to the shire council to lease the area adjacent to the groyne, which is marked on the Minister's map as a break-water. The map is wrong. The area adjacent to that is going to be used as a parking area for the Small Boat Owners' Association. I have a file here but I do not intend to weary members by reading it all.

Much publicity has been given to the construction of this track and one of the headlines in the Press reads, "The safest course ever to be constructed."

And now I come to what I consider is one of the most vital points affecting this particular area of land. The Minister did not acknowledge the lease sent in a letter on the 29th August of this year. Never at any time has the Lands Department, or the Minister for Industrial Development, who is annexing this piece of land, consulted the shire council; and that is where the whole matter virtually stinks.

The Governor can give permission to the shire council to lease an area of land for 21 years. The shire council carries out its part of the deal and leases the area through a properly drawn up lease and forwards it to the Minister for Lands. Yet we find, under this Reserves Bill that, without any consultation with the shire council, or with any people interested in the land, the department can just wipe it off and say, "We are going to have a ship-building yard there."

Through a private discussion the Minister claims that it will not affect the Tiger Go-Kart Club. But it would be impossible to build any type of structure or scaffolding on the area without affecting it, because the club's track area is completely fenced with a double fence 200 yards from high water mark to the edge of the quarry. The cliff face of the quarry is some 20 ft. high and the club has plans for placing seating along the top edge of the quarry so that people can sit under shade-houses and look directly down on the go-kart races. In approximately six months the organisation has spent £5,985; and it is a pretty bad show when the Department of Industrial Development can come along and say, "We are taking this away from you and you will have to move out."

I venture to say that no person inspected this area prior to the Bill being presented. If the Minister says that someone did, then the Government is at fault because quite rudely it did not consult the local authority in whom the land is vested.

There are 36 go-kart clubs in Western Australia and 33 of them are situated in country centres. Many of the people who race go-karts—and this is their headquarters—have caravans situated either at Coogee or Naval Base; and they come from as far afield as Borden, Brunswick, Albany, Northampton, and Geraldton. Members can see that this is a representative group

of people—over 800 in all—and they utilise this area. Therefore I ask the Committee to vote against the clause.

The Hon. E. M. DAVIES: I rise to support the case submitted by Mr. Thompson. With other members I deplore the fact that the department has gone so far as to place this matter in the Reserves Bill without consulting the local authority.

Those of us associated with local government know there is generally some difficulty with the Lands Department over questions like this. Not only has the local authority been ignored, but the heritage of the people—the beach—has been filched from them; particularly the area further down towards Kwinana. These portions of the beach are being given away to industry when other parts of the coastline could be utilised for the purpose. I would ask the Minister to report progress so that he can explain the position to the Committee.

The Hon. R. THOMPSON: There seems to be some confusion in regard to this locality where shipbuilding is concerned, and I would ask the Minister to visit the area over the weekend or any time he desires; and I am prepared to make myself available to accompany him.

Progress

Progress reported, on motion by The Hon. L. A. Logan (Minister for Local Government), and leave granted to sit again.

DOG ACT AMENDMENT BILL

Returned

Bill returned from the Assembly without amendment.

KATANNING ELECTRICITY SUPPLY UNDERTAKING ACQUISITION BILL

Second Reading

Debate resumed from the 8th November.

THE HON. A. L. LOTON (South) [10.32 p.m.]: I sought the adjournment of this Bill yesterday hoping that in a few hours some progress might be made and agreement reached between the interested parties, or between members who may have had some differences of opinion in regard to the Bill. I think some progress has been made today and no doubt the Minister will tell us the whole story when he replies. Some of the members who opposed the legislation yesterday may have second thoughts after having reconsidered the matter; and I understand there is every chance that the Bill will be supported.

I cannot agree with those who raised the issue yesterday that the amount of £60,000 is to be the one and only payment for the undertaking; because clause 5 of the Bill is very definite in the words

"except a sum of sixty thousand pounds on account of." Those words could only mean a deposit and not a final payment. To me it seems that the £60,000 is a sum from which to start. If the arbitrator decides a further sum should be paid, then that will be carried out. To say that this is a final amount is to stretch words to the utmost.

The words "on account of" do enable the court to increase the payments; but they do not mean the flour mills will only receive £60,000. What concerns me more than anything else is the position of the people at Katanning. It is evident that the sooner these parties reach some sort of compromise the better it will be for all concerned; because it is unfair to the other public utilities in and outside the town of Katanning to be denied S.E.C. power.

The Hon. H. K. Watson: Did you say "reach agreement" or "breach agreement"?

The Hon. A. L. LOTON: I said "reach." The people of Katanning are the sufferers and the sooner agreement is reached, the better for all concerned. I support the Bill and await the Minister's reply with some interest.

THE HON. L. A. LOGAN (Midland—Minister for Local Government) [10.38 p.m.]: I do not intend to reply to the remarks made by Mr. Strickland when he referred to confiscation and Cuban tactics being adopted by this Government. I prefer to leave them to the commonsense of members who will, no doubt, place them in their correct perspective.

The Hon. E. M. Davies: They would be repeating what they did before.

The Hon. L. A. LOGAN: If members put those words in their right perspective nobody would take any notice of them. The honourable member also mentioned capital. Surely profit can only be taken on the capital cost, or the capital employed plus service and the type of service given! If we have a look at the capital involved in the Katanning Flour Mills we will find it is not very great; the service the company is giving its consumers is very poor in the extreme, but the price the consumers are paying for that service is extremely high. Is it any wonder that the company is making £16,500 a year profit? If there was ever exploitation of the people, this is it.

While pinballs were being tossed about the Chamber I took the opportunity to study the file and I found that the records went back to 1945, and perhaps earlier. But in 1945 the then Katanning Road Board, beside the people of Katanning, was concerned about the very poor supply of electricity in Katanning. The record goes on from there to mention the electricity committee set up by the Government to inquire into electricity under the plan at the moment. After letters, conferences, and discussions, arrangements could have been

made in 1945 for the Katanning Flour Mills to change over to alternating current, but negotiations broke down.

They could have arrived at another arrangement, but again negotiations broke down. I mention this to let members know that this trouble has not arisen in Katanning recently; it has been there for 16 years. It is little wonder that the people of Katanning are now, after 16 years, interested in what their future is to be.

I think it is very significant that the shareholders of the company themselves have reached the stage that they are advocating the passing of this Bill. Mr. Strickland said that I did not explain the Bill. Either Mr. Strickland cannot understand plain English or he was not listening. There are only three principles in the Bill and I reiterated those on three or four occasions. One of the principles involved is that a deposit of £60,000 will be paid; the second that the S.E.C. will take over on the 4th December; and the third principle is that the S.E.C. will pay to the company the final cost arrived at by the umpire. Surely it does not take a considerable amount of explanation to understand that!

Let us get back to the agreement signed in 1948. Neither the S.E.C. nor the company in 1948 anticipated that any of this trouble would arise. We must not forget that an agreement was made that when the S.E.C. got A.C. electricity to Katanning it would take over the company. All this Bill seeks to do is to put that agreement into effect.

The Hon. W. F. Willesee: At a fair price.

The Hon. L. A. LOGAN: Yes, at a fair price. The Bill seeks to put that agreement into effect. It abrogates nothing. Clauses 3 and 4 of the agreement have been incorporated into clauses 5 and 6 of the Bill. But it will put into effect the agreement signed in 1948. Surely the very fact that this Bill provides that whatever the price arrived at by the umpire will be paid by the S.E.C., and that the balance between that and the £60,000 will be paid at 6 per cent. interest, is sufficient.

The Hon. H. K. Watson: Where is that in the agreement?

The Hon. L. A. LOGAN: If the honourable member looks at clause 3 of the agreement he will see that the provisions laid down in clauses 5 and 6 of the Bill are probably better than my explanations.

In 1948 it was never anticipated that such a state of affairs would occur—that 12 months after the S.E.C. had alternating current at the edge of Katanning, no agreement would have been reached between the two parties. Here we have a public, or semi-Government Department—if one could call it that—which has already spent £98,000 on which it has had to pay interest for 12 months, all because of the disagreement as to price. The price, or the value given by the S.E.C. was approximately £62,000, and the original valuation

by the company was £150,000, which was ultimately raised to £167,000. Where the other £17,000 came from, I do not know.

The Hon. F. R. H. Lavery: The umpire should find that out, should he not?

The Hon. L. A. LOGAN: Yet, some members in this House, because the umpire asks for a legal interpretation—which was not in favour of the commission—would ask the commission to forgo any right of appeal against the judge's decision. I think it is rather unique that members of this House should ask a commission like the S.E.C. to forgo its right which would be against the interests of the public and those people who subscribe to the commission's loans.

The Hon. F. R. H. Lavery: They were not so honest about the Fremantle situation, but threatened they would take them over.

The PRESIDENT (The Hon. L. C. Diver): Order!

The Hon. L. A. LOGAN: One or two members mentioned that they feared the stating of £60,000 in the Bill might influence the umpire by giving him the impression that that was the valuation. Those remarks were very unfair to a man of the calibre of Mr. Dowson. This could not be the position at all because Mr. Dowson already knew that both arbitrators had placed their valuations before him. I do not think it is fair to even hint that the figure of £60,000 would be the valuation from the umpire's point of view.

It was suggested that we should try to get a further legal opinion. I have endeavoured to do that, but I have not been able to get the opinion of a Q.C. in the time that has been available since this morning and when I thought this Bill would be discussed this afternoon. It would have been unfair to ask any Q.C. to try to give an assessment of the position, as this would take somewhere in the vicinity of 12 to 14 hours, with his having to do continued research before giving an opinion.

The Hon. H. C. Strickland: You should have adjourned the Bill until Tuesday.

The Hon. L. A. LOGAN: When we left last night, we were endeavouring to finish the session this evening. At that stage we thought there was a chance, but unfortunately that cannot transpire. I have a six page report from Mr. Ruse, the Crown Solicitor. I know some members will not accept it, Mr. President. Last night Mr. Watson mentioned the fact that I obtained the opinion of a Q.C. on something else.

However, I would remind Mr. Watson that I obtained that Q.C.'s opinion on the interpretation of a judgment of the Privy Council, the highest court in the land—a judgment from which there is no appeal. But in this case, I would be obtaining the opinion of a Q.C. in regard to a judge's

decision, which could be subject to two or three appeals, if necessary. It is an entirely different proposition altogether.

For the sake of the record, I think I should read this report from the Crown Solicitor. I might mention that the members of the commission who deemed it advisable to appeal—as far as I can ascertain—were Sir Alex Reid—someone whom we all know—Mr. Young, Director of Works, Mr. Temby, who was with the Department of Industrial Development and is now with the Department of Public Works, Mr. Jukes, and Mr. McKinley, who I believe is a highly reputable businessman in the city. I understand they were the five men who met to decide whether they should appeal or not, and they decided to do so on the advice of their solicitors. Yet we are told by some members in this House that the commission should not appeal. That seems rather strange to me.

The Hon. H. C. Strickland: The other party was prepared to forgo it before the decision.

The Hon. L. A. LOGAN: I will now read the report, dated the 9th November, 1961, from the Crown Solicitor, which is addressed to the Attorney-General—

C.L.D. 6977/60.

re: Judgment—State Electricity Commission and Katanning Flour Mills Limited—Arbitration—Case Stated to the Supreme Court.

In view of the limited time at my disposal I can set out only very shortly, the grounds on which I consider the Honourable Mr. Justice D'Arcy has, with respect, erred in his judgment.

1. The questions for the opinion of the Court, were—

Having regard to the terms of the Agreement,

- (a) is the purchase price of the said electricity supply undertaking the total of the present-day values of the land plus the present-day replacement costs less depreciation of the other physical assets assessed as individual items without regard to the profitability of the undertaking?
- (b) is it permissible to arrive at the said purchase price by taking into account the profit earning capacity of the undertaking?
- (c) if the said purchase price is not ascertainable by one or other of the methods mentioned above on what basis is such purchase price to be ascertained?

2. The State Electricity Commission contended that the correct answer to (a) was "yes."

The submissions made by Mr. Wilson as appears from his Brief, were as follows:—

- (1) That clause 3 of the Agreement exhaustively prescribes the criteria by which the purchase price is to be fixed.
- (2) It is clearly confined to a valuation of land and physical assets.
- (3) There is no room for including any intangibles. Goodwill, profitability etc.
- (4) The key word is "value" in the phrase "the purchase price of the Company's electricity supply undertaking shall be the total assessed value as at the date of the purchase of the engines, motors, generating machinery, buildings, and land etc."

Note it is the value of an engine, motor etc.

The word "total" implies a summation of separate values.

It is not the value of a going concern—if it were then it would have been sufficient to say "the assessed value of the undertaking as a going concern."

The itemisation is against this construction.

Profitability was so clearly excluded because on the known facts the undertaking had a limited life.

Even if it were to be construed as "the value of a going concern" in the particular context—statutory context—against which the Agreement was executed, such value could mean no more than the value of its tangible assets.

Because this concern clearly had no future as such—

- (1) Katanning Electric Lighting & Power (Private) Act, 1904—confers no monopoly—only permissive.
- (2) State Electricity Commission Act, 1945—section 29 (a). At any time the State Electricity Commission could have entered into competition.
- (3) The inclusion of Katanning in the South West Power Scheme was complete—South West Power Scheme Act, 1945 and Report—a maximum of 10 years life.
- (4) The inevitable conversion from D.C. to A.C. made the undertaking obsolescent.

A.G. for Ceylon v. Mackie (1952) 2 All E.R. 775, 779 (P.C.).

This construction is consistent with practice in this kind of public utility.

State Electricity Commission could compulsory acquire.

Under Electricity Act, 1945 secs. 9 and 17 local authorities grant sole concessions expressly exclude goodwill in takeovers after 5 years.

The submissions of Mr. Downing, Q.C. are set out at page 1 of His Honour's judgment.

3. I deal now with the reasons for His Honour's opinion.

1. His Honour points out that in clauses 2 and 4 of the Agreement, mention is made of the sale to the Commission of the Company's right, title and interest in the Company's "electricity supply undertaking" (clause 2) and "on the receipt of the purchase price of its said electricity supply undertaking the Company shall give possession of such undertaking to the Commission" (clause 4).

But I submit that no matter what the Company was selling and no matter what it was to hand over, clause 3 is clear and unequivocal as to how the purchase price for such sale was to be arrived at.

Clause 2 deals with what the Company is selling and clause 4 deals with what it will hand over, but clause 3 states specifically how these things will be paid for.

If I may give an example; a person may offer for sale a house, land and lawn mowing business carried on from that house.

The purchaser, although satisfied that the lawn mowing business is run down from competition and the goodwill therein is practically worthless, will nevertheless agree to buy such goodwill with the house and land.

The contract may then be entered into in which it is stated that the purchaser will buy the house, land and lawn mowing business carried on therefrom and lawn mower, but the contract may well then go on to say that the purchase price to be paid for the above will be the assessed value of the land and buildings erected thereon and of the lawn mower.

This would clearly confine the purchase price to tangibles notwithstanding that the vendor was assigning and the purchaser was receiving the goodwill.

In the present case His Honour has quoted from Barton and Fitzgerald, a case decided in 1812 as follows:—

The sense and meaning of the parties in any particular part of an instrument may be collected ex antecedentibus et consequentibus;

every part of it may be brought into action in order to collect from the whole one uniform and consistent sense, if that be done.

I assume that the Latin phrase "*ex antecendentibus et consequentibus*" means, colloquially speaking "from what goes before and from what comes afterwards."

But I submit with respect, in this case that clause 3 clearly sets out how the purchase price was to be arrived at and that it is invalid to resort to either clause 2 or clause 4 of the Agreement to swell the purchase price envisaged by clause 3.

4. With respect to the quotation set out in paragraph 4 of His Honour's reasons, that quotation was made by Sugarman J. in the case therein mentioned where it was His Honour's duty to value the undertaking of a company as a going concern.

It will be noted that the phrase was used in an act of Parliament which provided for the compulsory acquisition by an Electricity Commission from the shareholders in the Balmain Electric Light Co. Ltd., of all the issued shares of a company and for the vesting in the Commission of all rights, liabilities and property of the Company.

For the purpose of arriving at the compensation for the compulsory acquisition of the issued shares, a certain valuation had to be made. That valuation was set out in a provision of the relevant Act, which read as follows:—

On the date upon which His Majesty's assent to this Act is signified the valuation as at the 31st day of October. One thousand nine hundred and fifty, of the undertaking of the Balmain Electric Light Co. Ltd. as a going concern, shall, by virtue of this section, be referred to the Court.

It will be noted—

- (a) this was a case of the interpretation of words in an Act of Parliament and not of words used by parties in an Agreement; and
- (b) the words used in the Act of Parliament specifically referred to the valuation of the undertaking "as a going concern" and left the basis of valuation to the Court. That Act did not contain a clause similar to clause 3 of the present Agreement in which the parties have set out the basis of arriving at the purchase price.

5. In clause 5 of His Honour's reasons, he states—

It is true that the parties were stipulating in the face of these matters but they were also stipulating in the face of the great weight of authority in the decisions of the Judicial Committee in *Perth Gas Company Ltd. v. City of Perth Corporation* and in *Hamilton Gas Co. Ltd. v. Hamilton Corporation*, decisions on principles peculiarly affecting statutory supply authorities in regard to take-over valuations.

His Honour, however, has failed to mention that there were decisions of high authority in cases upholding different principles of valuations.

The competing principles have been dealt with by His Honour Mr. Justice Sugarman in the abovementioned *Balmain Electric Light Co. Ltd.* case and in explaining the difference between the two principles I can do no better than give the following quotation from His Honour's judgment.

Valuation of physical assets—the "Tramways principle":—This principle has been so called because of its association with cases of acquisition arising under the English Tramways Act, 1870, although it is not restricted to cases under that Act. It is a principle of valuation of acquired physical assets, under appropriate terms of transfer, by reference, under one name or another, to what in these reasons I have termed their adjusted replacement cost. Within the limits of its applicability it may now be taken to be so well established as to be beyond criticism on purely economic grounds (c.f. *Oldham, Ashton and Hyde Electric Tramways v. Ashton Corporation* (7), per Rowlatt, J.). And, within these limits, it may be said to amount to a "practice and doctrine" requiring, in order to justify departure from it, the clearest direction in the terms of transfer (*International Railway Co. v. Niagara Parks Commission* (8), per Lord Macmillan). The leading cases in the House of Lords and the Privy Council are *Stockton and Middlesbrough Water Board v. Kirkleatham Local Board* (9); *Edinburgh Street Tramways Co. v. Lord Provost of Edinburgh* (10); *London Street Tramways v. London County Council* (11); *Kingston Light Heat and Power Co. v. Kingston Corporation* (12); and *International Railway Co. v. Niagara Parks Commission* (8). The *Stockton*

case (13) and the London Tramways case (11) require to be considered with the respective decisions therein of the Court of Appeal (14 and 15), and the Edinburgh Tramways case (10) with the decision therein of the Court of Session (16).

Valuation of Undertakings—The “going concern principle”:—I have for convenience given this name to the principle of valuation by reference to profit-earning capacity applicable where the terms of transfer provide for the acquisition of a commercial undertaking as a going concern.

The leading cases in the Privy Council are *Hamilton Gas Co. v. Hamilton Corporation* (17) and *Perth Gas Co. v. Perth Corporation* (18); however it had already been accepted as commonplace in the Court of Appeal in the *London Tramways Case* (19), per A. L. Smith L.J., and in the Court of Session in the *Edinburgh Tramways Case* (20), per Lord Adam, that in these cases capitalisation of rental value is appropriate.

Basis and Scope of “Tramways principle”—Minimum value:—For present purposes it is unnecessary to determine the limits of the applicability of the “Tramways principle” beyond pointing out that it is a principle developed in cases in which, by express provision in one form or another or by inference from the terms of transfer, the tribunal which was required to place a value upon an aggregate of physical assets, in situ, operable and operating, and constituting all that was necessary by way of plant and equipment for the conduct of an undertaking, was at the same time precluded from paying regard to the profit-earning capacity of the undertaking. Whatever the full extent of the applicability of the principle may be (see, for instance, *National Telephone Co. v. Postmaster-General* (21), *Gieta Sebea v. Territory of Papua* (22)), the only question in the present case is a limited one. The “Tramways principle” is a principle of valuation of the physical assets employed in the conduct of an undertaking by reference to their adjusted replacement cost and without regard to their profit-earning capacity, applicable on an acquisition of those physical assets under terms of transfer which are appropriate to attract the operation of the principle. The

only question here is whether the “Tramways principle” is to be applied under the terms of transfer in this case, in making a valuation of an “undertaking” “as a going concern” for the purpose of ascertaining the price to be paid to the shareholders in the company conducting the undertaking upon a compulsory acquisition of their shares.”

It will be seen therefore that there was high judicial authority in support of the Tramways principle in arriving at valuations.

I am unable to understand why His Honour emphasised only the cases on the “going concern principle” particularly in view of the fact that the parties to the present agreement had in clause 3, used, with respect, language which in my opinion, obviously intended to imply the Tramways principles.

6. In clause 5 of his reasons, His Honour goes on to say, after referring to the fact of the existence of the decisions in the *Perth Gas Company Limited v. City of Perth Corporation* and *Hamilton Gas Company v. Hamilton Corporation* case, as follows:—

“In those circumstances omission to distinctly and unequivocally express in the agreement an intention to avoid the ordinary effect of those principles supports the proposition that it was not intended to limit the significance of the references to “undertaking” as used in it.”

With respect, I consider His Honour was in error in drawing this inference.

In the first place, it is only in construing Acts of Parliament that, generally speaking, the Courts will ascribe to the draftsman a knowledge of prior legal decisions as to the meaning of certain phrases and an intention for the words to have the same meaning where used in the Act.

In other words the Courts are prepared in some cases—

- (a) to assume that the legislature knows not only all the law but judicial decisions on the meaning of words and phrases of the English language; and
- (b) to intend those principles to apply when it uses similar words and phrases.

In my opinion, however, to ascribe a similar knowledge and intention to the parties in the present case is unreal and not supported by judicial dicta. With respect a new burden could be added to those of ordinary intelligent businessmen sitting down to negotiate an agreement with one another and using ordinary English

language in a normal way, to express their intention, to find that the Courts would assume that they had knowledge of legal decisions of the Privy Council given 35 to 40 years ago and of the artificial interpretation given therein to words which had been coloured by the particular Act and circumstances in which they were used.

The burden would be increased if they found that the ordinary words they used were to be held by the Court to bear another meaning altogether.

In these circumstances I consider that His Honour was in error in holding that, because the parties had not distinctly and unequivocally expressed in the Agreement an intention to exclude any payment for goodwill or profitability they therefore intended payment to be made for those items, notwithstanding that in clause 3 of the Agreement dealing with the assessment of the purchase price, there is a sedulous abstention from making any reference to such items.

In view of the fact that in clause 3 of the Agreement the parties had set out at some length and particularisation what was to be taken into consideration in arriving at the purchase price, I suggest, with respect, that it was more likely that the parties meant to exclude any item which was not expressed.

It would have been so easy to mention goodwill or profitability if the parties had meant the value of those items to be assessed and added to the purchase price.

Due to the shortness of time, it may well be I have not dealt fully with His Honour's reasons, and I attach a copy of the Case Stated, Agreement, Judgment and Reasons.

I merely set out the matters which I consider warrant an appeal.

I know it is difficult for members who have not got a copy to follow it. The Crown Solicitor gave a decision to the effect that he thought the S.E.C. should appeal against the decision of Mr. Justice D'Arcy, and I considered it was only right that the House should know the reasons behind the Crown Solicitor's decision.

In my opinion this does not affect the issue one iota. It does not affect the final determination of the umpire; because whatever the final determination of the court, the umpire can take cognisance of that final determination or he need not do so. However, I presume that having asked for a legal interpretation of the meaning of clause 3 he will take some cognisance of the final determination.

Again I say that this decision has no bearing on the final determination the umpire is likely to get. Of those members who have spoken on this Bill, not one has

said that the company is going to lose one penny as a result of this legislation. When the agreement was signed in 1948 nobody—neither the company nor the S.E.C., nor anybody else—had any idea it would take so long, or that it was the intention of the agreement that the S.E.C. would walk in immediately and supply Katanning with A.C. electricity.

This will only effect an agreement and will not abrogate. I hope and trust that the House will agree to this measure. This trouble has been going on for 16 years; it is nothing new. It seems that this is the fairest way of bringing to Katanning the ordinary services of electric power.

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

Ayes—15.

Hon. C. R. Abbey	Hon. G. C. MacKinnon
Hon. N. E. Baxter	Hon. R. C. Mattiske
Hon. J. Cunningham	Hon. C. H. Simpson
Hon. A. F. Griffith	Hon. S. T. J. Thompson
Hon. J. G. Hislop	Hon. J. M. Thomson
Hon. A. R. Jones	Hon. F. D. Willmott
Hon. L. A. Logan	Hon. J. Murray
Hon. A. L. Loton	(Teller.)

Noes—14.

Hon. G. Bennetts	Hon. F. R. H. Lavery
Hon. E. M. Davies	Hon. H. C. Strickland
Hon. J. J. Garrigan	Hon. J. D. Teahan
Hon. W. R. Hall	Hon. H. K. Watson
Hon. E. M. Heenan	Hon. W. F. Willesee
Hon. R. F. Butchison	Hon. F. J. S. Wise
Hon. G. E. Jeffery	Hon. R. Thompson
	(Teller.)

Majority for—1.

Question thus passed.

Bill read a second time.

In Committee, etc.

The Deputy Chairman of Committees (The Hon. A. R. Jones) in the Chair; The Hon. L. A. Logan (Minister for Local Government) in charge of the Bill.

Clauses 1 to 4 put and passed.

Clause 5: Payment on account of purchase money of undertaking—

The Hon. H. K. WATSON: We have heard a good deal about the £60,000 which is mentioned in this clause. The Minister and other members have suggested that the specification of £60,000 has no significance. With great respect, I consider it has. I ask the Minister why the sum of £60,000 has been inserted. Why not £40,000, £75,000, or £100,000? The figure of £60,000 has been nominated because that happened to be the value which the State Electricity Commission valuer placed upon the undertaking, a valuation which is vastly different from that being contended for by the company.

I will not accept the argument that the insertion of this amount could not, directly or indirectly, have an influence on the court when arriving at its determination, because we must assume that this Bill, when passed, will at least be read by the court. I cannot help feeling that the amount of £60,000 is virtually an ultimatum to anyone who may decide this question because, in effect, it says, "You

make sure you get your figure round about £60,000, or else! Parliament is all-powerful." To my mind it prejudices the course of arbitration.

The Hon. L. A. LOGAN: The implication made by Mr. Watson against the umpire (Mr. Dowson) is completely unnecessary, and is one that should not be made by a member of this House. To imply that a man of Mr. Dowson's calibre can be influenced by the amount prescribed in this clause is going a little too far. I know he would take exception to what has been said, and so do I. As I said before, the amounts submitted by both the company and the commission were given to Mr. Dowson before any amount was prescribed in the Bill. Therefore, it could not have any effect on Mr. Dowson. If Mr. Watson wants to remove the sum of £60,000, I can move to insert the amount of 1s. I can do that if he so desires.

The Hon. H. C. Strickland: Put 100 in front of it.

The Hon. L. A. LOGAN: The honourable member can move to put 100 in front of it if he likes, but I will not accept it. If the amount is less than what is stated in the clause, the company will have to pay back the difference. When dealing with a transaction such as this, surely we should insert a reasonable figure somewhere along the line! It has no specific purpose, but it is a reasonable amount because the company has commitments to meet from the sale, and so the amount is worth while.

The Hon. H. C. Strickland: It does not receive the amount unless it has met its commitments.

The Hon. L. A. LOGAN: The company is not short of a few pounds, of course. To imply that the figure prescribed in the clause is likely to influence Mr. Dowson in the final offer to be made to the company, is an implication that both he and I object to.

The Hon. H. K. WATSON: The Minister knows, as well as I do, that I did not intend in any shape or form to cast any reflection upon the arbitrator. However, I challenge the Minister's explanation. I ask the Minister to deal with this point: The £60,000 is in accordance with the State Electricity Commission's valuation on a basis which at this moment—and we can only view the matter as it stands at this moment—is contrary to the law.

It seems that the minimum amount which could be given here is the commission's estimate of the amount that would be payable according to the principle enunciated by Mr. Justice D'Arcy. We are dealing with the legal position as it exists today. It is unfair and unreasonable to peg the figure to the original estimate of the State Electricity Commission.

Clause put and passed.

Clause 6 put and passed.

Clause 7: Civil remedies not affected—

The Hon. H. K. WATSON: We have the extraordinary position that when the parties were unable to agree they referred the matter to arbitrators who, in their turn, referred the matter to an umpire who, in his turn, referred the matter to the Supreme Court. I understand that for some time, and before the judgment of his Honour in Chambers was given, the company indicated it would be prepared to abide by the judgment of the single judge, whatever it might be.

The company gave that assurance in an endeavour to bring a speedy end to the dispute. The S.E.C. apparently made it equally plain that it would keep appealing until such time as it secured the judgment it wanted. That seems rather unfair. There is such a thing as vexatious litigation, and it would be a pity for a responsible body to continue litigation against an ordinary commercial concern, making that concern fight a battle of attrition. That is virtually the prospect here.

That being so, any costs involved in appealing should, in the special circumstances, be borne by the commission. I would like to move an amendment, which I have circulated, to the effect that costs incurred after the 9th November, 1961, by the commission or the company in respect of any appeal to the Full Supreme Court of Western Australia in or about the proper interpretation of the agreement or the arbitration therein, shall be borne and paid by the commission; as also shall the costs arising from any appeal by the commission against any judgment of the aforesaid court. The proposition means that the commission shall bear the costs of an appeal to the Full Supreme Court. If that court decides in favour of the commission and the company desires to appeal, the company shall run the ordinary risk of bearing its own costs in that appeal. But if the Supreme Court confirms the judgment of Mr. Justice D'Arcy and the commission desires to appeal above and beyond the judgment of that court, then the commission shall also pay the costs of the company in such an appeal. I move an amendment—

Page 4, line 25—Insert before the word "Nothing" the words "Subject to subsection (2) of this section."

This is preliminary to the effective amendment I propose to move. I propose to divide the clause into two subclauses and to do that it is necessary to insert a few preliminary words at the opening of clause 7.

The Hon. L. A. LOGAN: This is a one-sided arrangement, because the commission would pay the costs of everything in any event. What would happen if, by chance, the decision of the Full Court of Western Australia was given in favour of

the commission? The company would go to the High Court of Australia knowing it would not have to pay any costs.

The Hon. H. K. Watson: It has to pay.

The Hon. L. A. LOGAN: The words proposed by Mr. Watson are, "As shall also the costs arising from any appeal by the commission."

The Hon. H. K. Watson: It does not say "by the company."

The Hon. L. A. LOGAN: If the Full Court of Western Australia were to give a judgment in favour of the commission, that would be the end of it from the commission's point of view, so the amendment is unnecessary. It is a most unusual provision to place in legislation like this.

The Hon. J. G. Hislop: It is an unusual Bill.

The Hon. L. A. LOGAN: It is an unusual amendment coming from the honourable member, and I hope the Committee will not agree to it. We have no right to nullify what the court may do, and that is the effect the amendment would have.

Point of Order

The Hon. J. M. THOMSON: In view of section 46 (1) of the Constitution Acts Amendment Act, I ask for your ruling, Mr. Deputy Chairman, as to whether this amendment is in order.

Deputy Chairman's Ruling

The DEPUTY CHAIRMAN (The Hon. A. R. Jones): All I can say is that there is nothing in the amendment before the Chair which indicates that a charge would be imposed on the Crown. This is a State instrumentality but the funds are subscribed through loans on which payment of interest is made. This amendment does not impose any charge on the Crown. I therefore rule the amendment in order.

Committee Resumed

The Hon. H. K. WATSON: Under my proposal the position is this: If the Full Court of this State gives a decision in favour of the commission, and if the company desires to appeal against that decision it shall pay the costs of the appeal. But if the commission appeals, then the proposal is that the commission shall bear the costs—win or lose.

It has been suggested that this clause is unusual. It may be, but we are dealing with a very unusual transaction. I am trying to retain some measure of justice in the proposal.

The Hon. J. G. HISLOP: It is quite evident that some members dislike the proposition outlined in this clause. It is obvious that Katanning must be provided with alternating current within a short time. When Mr. Wise asked for the consideration of this clause to be adjourned until next Tuesday the Minister refused the request, unless it was necessary for Parliament to sit on that day. As Parliament

is to sit next Tuesday, I propose that progress be reported. In the meantime, members will have the weekend in which to contact the company and the commission to try to bring the parties together and arrive at an agreement.

The Hon. L. A. LOGAN: I see no reason why the completion of the Committee stage of the Bill should be delayed. If agreement is reached between the parties before the third reading is taken, there will be no need to proceed with the Bill.

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

Ayes—17.

Hon. G. Bennetts	Hon. H. C. Strickland
Hon. E. M. Davies	Hon. J. D. Teahan
Hon. J. J. Garrigan	Hon. R. Thompson
Hon. W. R. Hall	Hon. H. K. Watson
Hon. E. M. Heenan	Hon. W. F. Willesee
Hon. R. F. Hutchison	Hon. F. D. Willmott
Hon. G. E. Jeffery	Hon. F. J. S. Wise
Hon. G. C. MacKinnon	Hon. F. R. H. Lavery
Hon. R. C. Mattiske	(Teller.)

Noes—11.

Hon. C. R. Abbey	Hon. A. L. Loton
Hon. N. E. Baxter	Hon. J. Murray
Hon. J. Cunningham	Hon. C. H. Simpson
Hon. A. F. Griffith	Hon. S. T. Thompson
Hon. J. G. Hislop	Hon. J. M. Thomson
Hon. L. A. Logan	(Teller.)

Majority for—6.

Amendment thus passed.

The Hon. H. K. WATSON: I move an amendment—

Page 4, line 33—Insert after the word "thereto" the following sub-clause:—

(2) All legal costs incurred after the ninth day of November, one thousand nine hundred and sixty-one by the Commission or the Company in respect to any appeal to the Full Supreme Court of Western Australia in or about the proper interpretation of the Agreement or the arbitration thereunder shall be borne and paid by the Commission as also shall the costs arising from any appeal by the Commission against any judgment of the aforesaid Court.

The Hon. A. F. GRIFFITH: Before we debate this amendment I would like Mr. Watson to state the title of any legislation on the statute book of Western Australia into which we have written a predetermination as to what is going to happen in regard to costs in a court of law.

The Hon. H. K. WATSON: I would be very pleased to answer the Minister subject to his telling me whether in any Parliament, a Bill of this nature has ever been passed before.

The Hon. A. F. GRIFFITH: That is just a let out because of the honourable member's inability to answer my question. If this amendment is agreed to we will be usurping the fundamental right of the judiciary to award costs on its own terms.

The Hon. H. C. Strickland: We do that every time we insert the word "shall" in an agreement.

The Hon. A. F. GRIFFITH: What has that to do with legal costs? I do not see the connection. I have asked Mr. Watson if he can tell us of any legislation on our statute book into which we have written a predetermination as to the costs to be awarded by the court.

The Hon. H. C. Strickland: Report progress until Tuesday and give us a chance to make a search.

The Hon. A. F. GRIFFITH: Mr. Watson has answered my question by asking me a question. In other words, he did not give me an answer.

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

Ayes—17.

Hon. G. Bennetts	Hon. R. C. Mattiske
Hon. E. M. Davies	Hon. H. C. Strickland
Hon. J. J. Garrigan	Hon. J. D. Teahan
Hon. W. R. Hall	Hon. R. Thompson
Hon. E. M. Heenan	Hon. W. F. Willesee
Hon. R. F. Hutchison	Hon. F. D. Willmott
Hon. G. E. Jeffery	Hon. F. J. S. Wise
Hon. F. R. H. Lavery	Hon. H. K. Watson
Hon. G. C. MacKinnon	(Teller.)

Noes—11.

Hon. C. R. Abbey	Hon. J. Murray
Hon. N. E. Baxter	Hon. C. H. Simpson
Hon. A. F. Griffith	Hon. S. T. Thompson
Hon. J. G. Hislop	Hon. J. M. Thomson
Hon. L. A. Logan	Hon. J. Cunningham
Hon. A. L. Loton	(Teller.)

Majority for—6.

Amendment thus passed.

Clause, as amended, put and passed.

Clause 8 and 9 put and passed.

Schedule put and passed.

Title put and passed.

Bill reported with amendments.

MINE WORKERS' RELIEF ACT AMENDMENT BILL

Second Reading

THE HON. A. F. GRIFFITH (Suburban—Minister for Mines) [11.52 p.m.]: I move—

That the Bill be now read a second time.

The parent Act relates to the relief fund established for the payment of benefits to workers who contract certain industrial diseases. Subscriptions to the fund come from the mine workers, the mine owners, and the Government. Compensation is initially payable in accordance with the Workers' Compensation Act to mine workers contracting silicosis, or asbestosis, in the advanced stage, or tuberculosis with silicosis or asbestosis.

The fund provides additional financial benefits for these victims when their compensation has been paid in full. Though compensation on a percentage basis is also payable in respect of silicosis or asbestosis

in the early stage, there is no fund benefit payable at that stage. The fund, however, does provide for benefits for mine workers developing "straight" tuberculosis. That disease, when not associated with either silicosis or asbestosis, is not compensable under the Workers' Compensation Act. The Act does not include coalmining, but covers all metalliferous mining.

The Government is sympathetic towards the mine workers and the Bill includes a number of amendments which will operate to the benefit of the mine workers. Section 13 of the Act prohibits a mine worker from further work in the industry when it has been established by the laboratory test that he is suffering from tuberculosis, with or without silicosis or asbestosis. He accordingly qualifies for, and is paid compensation under the Workers' Compensation Act and/or benefits under the Mine Workers' Relief Act. It is at present provided, however, that either of the conditions mentioned must be diagnosed while the mine worker is employed in the industry or within 12 months of his leaving the industry.

Those conditions accordingly affect detrimentally his workers' compensation entitlement should his symptoms not manifest themselves until after twelve months have expired since he left the industry. Further, he is excluded from participating in fund benefits.

It is the intention, with the introduction of this Bill, for the Government to liberalise the section. The Bill provides that a man shall be deemed a mine worker on certain conditions. Firstly, in the event of his being found by the laboratory to have tuberculosis in his second year of his leaving the industry, provided the appeal board certifies that the condition is a direct result of the man's employment in the industry.

Further still, in the event of his being found by the laboratory to have tuberculosis with silicosis or asbestosis, within three years of his leaving the industry, he shall be deemed a mine worker. With the passing of this legislation then, those two qualifications would be in addition to those at present existing.

It should be explained that the Kalgoorlie X-ray laboratory, which is under the superintendence of an appointed medical officer, is responsible for the pre-employment and periodical medical examination of mine workers, and for the issue of certificates permitting and prohibiting employment in the industry.

All diagnoses made by the University are final, except that of tuberculosis, which is subject to appeal by the mine worker.

The Hon. J. G. Hislop: Why is there a reference made to the University?

The Hon. A. F. GRIFFITH: Let me finish the introduction first.

There seems insufficient reason why tuberculosis should be the only exception in this regard. It would be more equitable if mine workers had the right of appeal against all diagnoses made by the laboratory, and without in any way lessening the Government's confidence in the laboratory, it intends, through the passing of this measure, to give any mine worker entitled to be examined under this Act, such right of appeal.

As with appeal provisions in many other statutes, there is need to safeguard against the frivolous appeal. The safeguard in this case will lie in the necessity for each appeal to be supported by a certificate given by an independent doctor to the effect that the appellant's condition is materially different from that found by the laboratory.

Section 16 of the Act makes similar provisions to those in section 13, but they relate to silicosis and asbestosis, either in the early or advanced stage, but excluding tuberculosis. It is consequently intended to provide for an extension of the qualifying period in this section also, from one to three years.

Section 49 of the Act provides generally that a mine worker without silicosis or asbestosis, but not entitled to compensation under the Workers' Compensation Act, shall receive from the fund an amount of £750, at an assessed weekly rate not exceeding £3 10s. When the £750 is exhausted at that rate, the fund benefits are payable in accordance with scale 1 of the second schedule under the regulations of the Act.

It was, in fact, an advantage to the mine worker to draw the £750 at the £3 10s. per week rate, when the provision was initially enacted, for the reason that the scale rate was lower than £3 10s. The scale rate has, however, been increased over the years, and now stands at a maximum of £4 10s. per week, with the result that the existing provisions are operating to the detriment of the mine worker.

In order to rectify this anomaly in section 49, the section has been redrafted to provide for benefits under the section to be in accordance with scale 1 of the second schedule previously referred to.

As regards the discontinuance of benefits to a mine worker who has been issued with a certificate by the laboratory that he has recovered and is free of the disease, it is apparent that medical men are reluctant to issue to a man who has once been affected by tuberculosis, a certificate that he is free of the disease.

The profession favours certification of the tubercular condition having been arrested, with the addendum that the patient is fit for full-time gainful employment outside the mining industry.

It is not reasonable to expect that fund benefits should be continued in cases where this type of certificate is given; and the

Bill accordingly makes provision for the fund benefits to be discontinued as soon after its issue as the fund board determines.

In the event of the tubercular condition recurring and the man being again incapacitated for work, the fund benefits will be resumed.

As indicated earlier, the fund at present pays benefits to those mine workers who have contracted tuberculosis or have exhausted their compensation under the Workers' Compensation Act for, firstly, advanced silicosis or asbestosis, or, secondly, for tuberculosis with silicosis or asbestosis, contracted in the industry.

This Bill extends the scope of those benefits. While the benefits are a valuable assistance to ex-mine workers qualifying for them, there are other deserving cases to which the Government has given sympathetic consideration.

There is a provision, therefore, contained in the Bill for the benefits, as prescribed by scale 1 of the second schedule to be paid to ex-mine workers who are registered with the department as early silicotics, and who have continued to subscribe to the fund and who are—

- (1) Unable to work through incapacity due to some malady or disease not compensable under the Workers' Compensation Act.
- (2) Invalid pensioners.
- (3) Old-age pensioners.

The mine worker contributes to the fund at a rate of 1s. per week on the basis of a 48-week year; the employers contribute an amount equal to the total paid by their employees. The Government contributes a sum equal to that subscribed by the employees.

It would be quite impossible for the fund to meet the cost of the proposed additional benefits, because, in recent years, the contributions have not been sufficient to meet the fund's outgoings.

It is accordingly proposed to increase these through the regulations. The basic weekly rate will be increased from 1s. to 1s. 9d. It has not been established with certainty, because of unknown variables which may affect the position, that the increase to 1s. 9d. will cover the additional liability of the fund.

That aspect will be dealt with later through the terms of an agreement reached between the Government, the Chamber of Mines, and the unions, for a review of the rate after two years. That agreement provides for an increase in the rate should it then be found necessary.

The Government is at present contributing £13,500 per annum to the fund, and it has been estimated that the increased cost to the Government, as a result of the additional contributions to be paid by the employees, will be £10,500 more each year.

Prospectors are dealt with under section 57. The provisions of that section enable the fund to accept contributions from a prospector should he be found by the laboratory to be suffering from silicosis or asbestosis, either in the early or advanced stage, or from tuberculosis with, or without, silicosis or asbestosis, either while he is prospecting, or within twelve months of his ceasing prospecting, and he becomes entitled to fund benefits.

A similar extension of qualifying periods will be accorded prospectors under the amendment affecting that section of the Act as is accorded mine workers through the proposed amendments to sections 13 and 16. Similar new rights of appeal will also be given. The effect of the amendment will be to place prospectors in much the same position as mine workers, with the exception that a prospector does not qualify for compensation under the Workers' Compensation Act, on account of there being no employer-employee relationship.

There are several other minor provisions in the Bill about which it is considered unnecessary to enter into explanation at this stage.

I would like to add that in the past twelve or fifteen months I have visited Kalgoorlie two or three times and had consultations with the board which comprises representatives of the mining division of the A.W.U., the Chamber of Mines, and the Mines Department. This arrangement has been mutually agreed to by all concerned.

Knowing the views of Dr. Hislop, and the extended sympathy he has always shown to people in the mining industry, and my own desire to make some improvement, I realise that some may think this legislation does not go as far as it should. However, at least it is a start.

I might also say that this particular fund, whilst not reaching the stage of impoverishment, is not in a particularly good position, and it was very necessary to take some action to ensure that a stage of impoverishment was not reached. The men, for their part, had quite willingly agreed to increase their contribution from 1s. to 1s. 9d. a week, with the understanding that should it be necessary within a couple of years to make a still further increase this will be done, in order that the fund can meet the additional liabilities or obligations it will be required to meet as a result of these amendments.

I repeat that there is an air of uncertainty in relation to the financial obligation of the fund because the extent to which these amendments will take those financial obligations is not quite known, particularly in the case of prospectors. However, it is a step in the right direction. It is an improvement which for many years has not been made; and I hope the Bill will be accepted in the form in which

it is printed, on the basis that it is a genuine attempt to improve the lot of those employed in industry.

Debate adjourned, on motion by The Hon. E. M. Heenan.

THE FREMANTLE GAS AND COKE COMPANY'S ACT AMENDMENT BILL

Second Reading

THE HON. L. A. LOGAN (Midland—Minister for Local Government) [12.5 a.m.]: I move—

That the Bill be now read a second time.

The Fremantle Gas and Coke Company Limited has requested the introduction of amending legislation in respect of its Act. All the gas produced by the company is at present manufactured from imported Newcastle coal. The vertical retorts used in the process produce coke and tar as by-products.

Though the existing plant has not yet reached the end of its useful life, the company plans for its replacement with a completely new plant. The new plant will manufacture gas from oil obtained from the Kwinana refinery, with a relatively small by-product of tar oils. The company proposes to raise the £300,000 needed for his project by debentures. As a result of the installation of this plant, the company has estimated a saving of some £68,000 per annum. The general manager of the State Electricity Commission concurs in the view that the installation of such plant will permit a very considerable reduction in operating costs.

It is thought, however, that the actual savings will be considerably less than the amount expected by the company. Nevertheless there are good reasons to believe that the company should be permitted to go ahead with its proposal.

The company, however, may not proceed with its plans until certain amendments to the Fremantle Gas and Coke Company's Act, and also the Gas Undertakings Act, have been passed.

The company's right to raise share and debenture capital is limited by the Fremantle Gas and Coke Company's Act of 1886-1956, and the limit of debenture raisings permitted has been reached. There is accordingly need to amend the Act by extending the amount of debenture capital that can be raised if the company is to obtain the new capital required.

This Bill accordingly removes the limitation on the company's right to raise share and debenture capital, with the provision that before new debenture capital may be raised, ministerial approval must be obtained.

Debate adjourned, on motion by The Hon. F. R. H. Lavery.

GAS UNDERTAKINGS ACT AMENDMENT BILL

Second Reading

THE HON. L. A. LOGAN (Midland—Minister for Local Government) [12.8 a.m.]: I move—

That the Bill be now read a second time.

Certain sections of the Gas Undertakings Act require amendment prior to the Fremantle Gas and Coke Company's plans being effectuated. That is the only company affected by the parent Act which this Bill seeks to amend. The company has asked primarily that the "renewal fund" be defined in the Gas Undertakings Act.

This would, in effect, permit the company to charge amounts appropriated to a renewal fund against the profits of the company.

The consumer would then be charged with the capital repayment of, and interest on, debentures. That would enable the writing-off by the company of its new plant as a charge against working expenses. The net result would allow of a reduction of the book value of the plant over a much shorter period than at present provided under the depreciation rates as set out in section 15 of the Act.

Turning to the basic price for gas, there is a requirement for the commission to fix a basic price and for certain specified charges to be taken into account when calculating that price. The company has requested an amendment to the Act to include provision for loan repayments as one of those permissible charges.

Incidentally, the company is not bound to charge the basic price for its product, and therefore the basic price has no real control over the actual price. That control lies in the limitation on dividends, accumulation of profits, and creation of reserves. It is, of course, not desirable that the basic price and the actual price should differ to an unreal extent. Accordingly, it has been agreed to accede to the company's request to the extent of amending the Bill with the proviso that the sum which may be added for loan repayments is to be limited to that figure which the Minister has approved under the proposed addition to section 10.

That section allows the company to make certain charges against its profits, including charges to a renewal fund. A weakness appears to exist in the Act, however, in that no limitations are placed on allocations to that fund. It is proposed to extend permissible charges against profits so that they may include transfers to a loan redemption fund. Such transfers to either a renewal or loan redemption fund will require ministerial approval.

The method of issuing shares is set out in the Act. This Bill repeals the appropriate section in order to allow the company to allocate shares at the discretion of the directors, as does any other public company.

Subsection (3) of section 10 prevents the company from carrying forward in its profit and loss account, a sum greater than is sufficient to pay one year's dividend at standard rates.

While that is an effective limitation imposed on the company, the position is complicated by section 13 (e) which allows the company to carry in a net revenue account a sum sufficient to pay one year's dividend at the standard rates of dividend.

Legal opinions have been obtained, which indicate that the term "net revenue account" may mean the same account as the profit and loss account.

It is accordingly proposed to amend section 13 (e) in order to resolve any doubt in the matter. That amendment will substitute "profit and loss account" for "net revenue account."

The rate of depreciation chargeable against revenue is fixed at 3 per cent. The purpose of the amendment in this regard is to permit the company to charge depreciation at a rate to be determined annually by the Minister, but the minimum rate is fixed at 3 per cent.

There is a further amendment providing that in the event of any plant being scrapped at any time during the year, an amount not exceeding the net book value of that plant, less the proceeds from its sale, may be charged against revenue.

Finally, there is a provision in this Bill that no depreciation is to be charged on plant which has been purchased from any loan, the repayment of which is being charged to a renewal fund.

Debate adjourned, on motion by The Hon. F. R. H. Lavery.

ADJOURNMENT OF THE HOUSE: SPECIAL

THE HON. A. F. GRIFFITH (Suburban—Minister for Mines): I move—

That the House at its rising adjourn until 11 a.m. on Tuesday, the 14th November.

Question put and passed.

House adjourned at 12.13 a.m. (Friday)