Bill. The honourable member has also raised the question of the application of uniform by-laws relating to signs and hoardings being applicable to Crown land. Mr. Logan also raised this question, but it has been pointed out that the Railways Department has already entered into a contract with a view to upgrading hoardings on railway property and that Government departments and instrumentalities generally will be required to comply with municipal by-laws wherever possible.

Mr. Clive Griffiths has suggested that the provisions of the Act relating to deferment of charges against the properties of pensioners should apply to the removal of dangerous trees. I have written to the Local Government Association and the Country Shire Councils' Association representatives on the matter as I believe they should be consulted, and I will be guided by their reply.

Some debate has taken place concerning the definition of a dangerous tree, but it is believed that, in practice, this will not cause any problems as each individual situation will need to be considered on its merits.

I thought Mr. Dellar made the best speech of the night.

The Hon. D. K. Dans: Hear, hear!

The Hon. S. J. Dellar: Thank you.

The Hon. R. H. C. STUBBS: He made a request to me regarding the qualifications of shire clerks, and I will note what he said. Although I am not making any promises at this stage, I will certainly carefully study the subject and see whether something can be done about it.

Before I conclude I wish to indicate that for personal reasons I do not desire to continue with the Committee stage tonight. I commend the Bill to the House.

Question put and passed.

Bill read a second time.

House adjourned at 9.36 p.m.

Legislative Assembly

Tuesday, the 13th November, 1973

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

IRON ORE (CLEVELAND-CLIFFS) AGREEMENT ACT AMENDMENT BILL

Message: Appropriations

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

BILLS (8): INTRODUCTION AND FIRST READING

1. Motor Vehicle Dealers Bill.
2. Hire-Purchase Act Amendment Bill.
   Bills introduced, on motions by Mr. Harman (Minister for Consumer Protection), and read a first time.
3. Metric Conversion (Grain and Seeds Marketing) Bill.
4. Wheat Industry Stabilization Act Amendment Bill.
5. Wheat Delivery Quotas Act Amendment Bill.
   Bills introduced, on motions by Mr. H. D. Evans (Minister for Agriculture), and read a first time.
6. Health Act Amendment Bill.
   Bill introduced, on motion by Mr. Davies (Minister for Health), and read a first time.
7. State Housing Act Amendment Bill.
8. Housing Agreement (Commonwealth and State) Bill.
   Bills introduced, on motions by Mr. Bickerton (Minister for Housing), and read a first time.

QUESTIONS (30): ON NOTICE

1. GOVERNMENT BOARDS, COMMISSIONS, AND INSTRUMENTALITIES

Members: Appointments and Vacancies

Sir CHARLES COURT, to the Premier:

(1) Is he now in a position to supply to the House the information requested in my question 6, 31st October, 1973 concerning the membership of Government boards, commissions and instrumentalities?

(2) If not, how long is it expected to take to obtain the required information?

Mr. J. T. TONKIN replied:

(1) No. The question involves very considerable research.

(2) Approximately two weeks.

2. BICTON MEDICAL CENTRE

Bed Occupancy

Dr. DADOUR, to the Minister for Health:

(1) What was the average bed occupancy at the Bicton Medical Centre for October 1973?

(2) How many—

(a) private patients; and

(b) public patients,

were treated for that month?

(3) What is the cost per bed?

(4) Does the all inclusive cost apply at this hospital?

Mr. DAVIES replied:

(1) The bed average of the Bicton annexe of the Fremantle Hospital for October, 1973, was 55.61.

(2) (a) 260.

(b) Nil.

(3) Separate costing of the Bicton annexe is not available.

(4) The same all inclusive charges apply at the Bicton annexe as at the Fremantle Hospital and other public hospitals.

3. LOCAL GOVERNMENT BOUNDARIES COMMISSION

Report

Dr. DADOUR, to the Minister representing the Minister for Local Government:

(1) Can the Minister supply the date he hopes to receive the report of the Royal Commission into metropolitan local authorities boundaries?

(2) Will affected local authorities have the right of appeal?

Mr. HARMAN replied:

(1) and (2) No.

4. MILK

Producer Licenses, and Vendor Licenses

Mr. SIBSON, to the Minister for Agriculture:

(1) How many milk producers hold licenses which are for—

(a) above average gallonage;

(b) below average gallonage;

(c) less than seventy-five gallons?

(2) What is the gallonage of the average license?

(3) Of the producers with licenses below average, what is their average, in gallons?

(4) Regarding vendors in the metropolitan area—

(a) what is the gallonage of the maximum license;

(b) what is the average gallonage of vendors' licenses;

(c) what is the gallonage of the minimum vendor's license?

Mr. H. D. EVANS replied:

(1) (a) 218;

(b) 326;

(c) 193.

(2) At 30th June, 1973, the average dairyman's contract quantity in the major contract supply area was 116 gallons. There are 10 dairymen with contract quantities of 116 gallons.

(3) 76 gallons.

(4) (a) and (c) No maximum gallonage has been fixed by the board for a milkman's license.

If an applicant for a milkman's license purchases all or portion of a milk round in the metropolitan area, the board requires that a minimum of 80 gallons of trade be purchased by the applicant and where the seller wishes to continue as a milkman, he must retain not less than 80 gallons of trade.

The minimum does not apply in some country areas where the size of milk rounds may be less than 80 gallons of milk daily.

(b) The average daily gallonage of milk sold by all persons holding milkmen's licenses in the metropolitan area was 219 gallons in June, 1973. Excluding treatment plants holding milkmen's licenses, the average daily gallonage reduces to 182 gallons.

5. LABOUR DEPARTMENT ADVISORY COMMITTEE

Workers' Compensation and Industrial Arbitration

Mr. O'NEIL, to the Minister for Labour:

Has the Minister for Labour's advisory committee operating in accordance with function (b) (answer to question 9 on notice 6th November, 1973) tendered any advice to him or the Department of Labour concerning—

(a) workers' compensation legislation; and

(b) industrial arbitration legislation,

and, if so, what was that advice?

Mr. HARMAN replied:

As stated in the question of Tuesday, 6th November, 1973, the Workers' Compensation Act amendments were only briefly discussed because of the pre-occupation of the committee on the extensive discussions on the Industrial Arbitration Act.

The views of the respective members on the Industrial Arbitration Act were fully explored. The activities of the Minister for Labour Advisory Committee, as previously stated, are confidential.

6. PARLIAMENTARY COMMISSIONER

Report: Consideration by Government

Mr. O'NEIL, to the Premier:

(1) Referring to the report of the Parliamentary Commissioner for Administrative Investigations for

the year ended 30th June, has the Government given consideration to—

(a) clarifying the situation where it appears to be possible for the Parliament or a committee of the Parliament to refer for investigation a matter normally outside the Commissioner's jurisdiction and in that event the Commissioner being required to so investigate and report;

(b) the recommendation of the Commissioner that matters appertaining to the operations of the State Government Insurance Office and Motor Vehicle Insurance Trust be excluded from his jurisdiction;

(c) the matter of the Commissioner's title;

(d) the matter of "secrecy" reported upon in depth by the Commissioner?

(2) If so, what are the intentions of the Government?

Mr. J. T. TONKIN replied:

(1) No, but this will be done when time permits.

(2) Answered by (1).

7. ABORIGINES

Pinjarra: Community Centre

Mr. RUNCIMAN, to the Minister representing the Minister for Community Welfare:

(1) Can the Minister give any details regarding the progress of the establishment of a community centre for Aborigines at Pinjarra?

(2) What is the amount of finance involved and from what source will it be derived?

(3) What services and assistance will it provide for the Aboriginal community?

Mr. T. D. EVANS replied:

(1) The Murray District Aboriginal Association Inc. is now awaiting the excision of land from the Commonwealth Welfare Department's Aboriginal reserve in Pinjarra. This matter is in the hands of the Lands Department.

(2) An amount of $60,000 has been promised by the Commonwealth Department of Aboriginal Affairs. A further $4,000 has already been received from the Aboriginal Sports Foundation for sporting facilities. The W.A. Lotteries Commission has undertaken to provide $3,000 for fitting out the centre when erected. In addition the Association itself has raised some funds and has been promised sundry other amounts.

(3) It is intended that the centre will be used for social activities, for pre-school education, sewing classes, homework classes and for various welfare activities.

8. SOUTH DANDALUP-DWELLINGUP ROAD

Sealing

Mr. RUNCIMAN, to the Minister for Works:

What is the current situation regarding a request from the Murray Shire Council and the Dwellingup Progress Association to have the road from the South Dandalup Dam to Dwellingup sealed?

Mr. JAMIESON replied:

A proposal whereby the Main Roads Department and the Murray Shire Council would jointly finance the cost of constructing and sealing the 2 mile section leading out of Dwellingup is being negotiated with the council.

The Main Roads Department, in conjunction with other bodies is currently investigating the remaining section of the road which is affected by mining operations with a view to finalising the alignment.

9. TEACHERS

Nonteaching Positions

Mr. O'NEIL, to the Minister representing the Minister for Education:

Is it a fact, as has been publicly stated by the Member for Mirrabooka, that there are persons being paid as teachers who are not teaching and are, in fact, doing nothing?

Mr. T. D. EVANS replied:

With approximately 9,000 teachers in its employ, most of them on the permanent staff, the Education Department would have, on occasions, a small number of teachers who were relieved from teaching classes. Situations of this type arise for compassionate reasons and they are usually of relatively short duration. It is not correct to say that these teachers do nothing as they are attached to large schools as supernumeraries assisting with small groups of students or relieving staff members of various professional tasks.

Mr. O'Neil: Ten out of 10 for trying.

10. JARRAHDALE-GREAT SOUTHERN HIGHWAY ROAD

Construction

Mr. RUNCIMAN, to the Minister for Works:

What progress is being made towards the planning and construction of a sealed road from Jarrahdale to the Great Southern Highway?

Mr. JAMIESON replied:

A corridor has been defined in a preliminary investigation and aerial photography is being obtained in order to permit detailed design of the route. No date has been set for commencement of construction. As stated in my reply of 19th April, this is a long term proposal which requires considerable investigation and will involve co-operation with several other organisations.

11. MILK

Price Rise: Recommendations

Mr. RUNCIMAN, to the Minister for Agriculture:

When is it expected that the Milk Board will have its recommendations completed on the milk industry's request for a long overdue rise in the price of milk?

Mr. H. D. EVANS replied:

Final industry submissions for the review of milk prices have been received and examined.

Further information required as a result of the examination is currently being received.

The review is receiving urgent attention and on its completion the board will submit its recommendations.

12. PERTH MEDICAL CENTRE

Controlling Authority

Dr. DADOUR, to the Minister for Health:

(1) As there are five different tenants on the Perth Medical Centre site and no authority has been vested with power or authority with respect to the "Medical Centre", does he intend to vest this needed power or authority, bearing in mind the importance of planning and management?

(2) (a) If so, who will be given this power or authority;

(b) if not, why not?

Mr. DAVIES replied:

(1) and (2) Section 13 of the Perth Medical Centre Act, 1966, specifies the functions of the Perth Medical Centre Trust. These are to undertake the development, control and management of the reserve.

The trust is not responsible for the day to day management and control of the operations of the tenants and it is not intended to interfere with this.

Because of the importance of planning, a joint planning committee has been operating for many years but has played a more important role in this Government's term of office than it had previously.

It operates as a committee of the trust and as the building committee of the Sir Charles Gairdner Hospital Board and also is responsible to the Minister.

When Parliament approves the proposed amendment to subsection (1) of section 12 of the Perth Medical Centre Act, 1966, the trust will be able to delegate its powers to a committee including other than members of the trust, and thus the constitution of the joint planning committee, which includes other than members of the trust, would then comply with the Act.

It will also permit the establishment of a committee which has been proposed by the trust to advise it in relation to matters relating to the site generally and to matters affecting more than one tenant. The committee will include a representative from each of the tenants and of the trust.

13. PERTH MEDICAL CENTRE

Ring Road

Dr. DADOUR, to the Minister for Health:

(1) Has the Perth Medical Centre Trust decided to establish an internal ring road in an attempt to alleviate the problem of increased traffic in the surrounding residential area?

(2) If so, when will work commence?

(3) If not, why not?

Mr. DAVIES replied:

(1) to (3) No. However, the joint planning committee of the trust is currently examining ways and means of reducing traffic congestion.

A conference has been arranged when representatives of the Nedlands and Subiaco Councils, the Metropolitan Region Planning Authority, Police and Main Roads Departments and the Metropolitan Water Board will examine all aspects of the situation.

14. ROADS

Perth Medical Centre Area: Widening

Dr. DADOUR, to the Minister for Works:

(1) Since the debate on the Perth Medical Centre Act Amendment Bill when the extent of the traffic problem created by the growth of the Perth Medical Centre was pointed out, has a firm date been set to widen the subways at Nicholson Road and Hay Street, Subiaco to alleviate this problem?

(2) If "Yes"—

(a) when will the work commence;

(b) what is the anticipated date of completion;

(c) what is the approximate cost?

(3) If "No"—why not?

Mr. JAMIESON replied:

(1) No.

(2) Answered by (1).

(3) Final planning must await the outcome of the feasibility study of the Perth central section of the railway line. However, preliminary planning has started for the Nicholson Road subway.

15. SHORTAGE OF MATERIALS AND MACHINERY

Survey

Mr. MENSAROS, to the Premier:

(1) Was it correctly reported—

(a) in the *Daily News* on 30th October, 1973 that there is a shortage in supply of farm machinery and parts and a waiting period up to 12 months to obtain these;

(b) in *The West Australian* on 7th November, 1973 that furnishings and hardware are becoming hard to obtain in the building industry?

(2) If so, can he explain how does he reconcile this fact with his reply to question 12 on 24th October when asked by the Leader of the Opposition to list the items where shortages are known, that only steel and raw materials for the plastic industry are in short supply?

Mr. J. T. TONKIN replied:

(1) and (2) According to Erskine May's *Parliamentary Practice*, questions asking whether statements in the Press, or of private individuals, or unofficial bodies, are accurate, are inadmissible. See section 15, page 353, seventeenth edition.

16. EDUCATION

Free Milk Scheme: Modification

Mr. MENSAROS, to the Minister representing the Minister for Education:

(1) Adverting to his reply to question 25 asked by the Leader of the Opposition on 23rd August, 1973, can he give information whether the Federal Government has discussed special aspects of the free milk scheme before having made a decision as to its modification from January 1974?

(2) If so, what was his attitude during these discussions having regard to his view expressed in answer to my question 5 on 30th October, 1973?

Mr. T. D. EVANS replied:

Before replying to this question I make the point that, without reference to the Minister for Education, I believe there is a wrong reference in the answer that has been given. The answer mentions the "Prime Minister's Budget speech" and I have personally altered that to read, "Treasurer's Budget speech". The reference is, of course, to the Commonwealth Treasurer. If I am wrong I take the responsibility, but the reference to the Prime Minister is obviously wrong in the answer provided to me. The reply to the question is—

(1) and (2) The proposal to modify the free milk scheme was made initially in the Treasurer's Budget speech for 1973-74 and as this is a Commonwealth matter, no discussions were held with the State before this announcement. In September a meeting of Ministers for Health, or their representatives, from the Australian and State Governments was held, when all aspects of the scheme were discussed. No final decision on the modifications proposed has yet been made by the Australian Government.

17. EDUCATION

Christian Education: Report

Mr. MENSAROS, to the Minister representing the Minister for Education:

(1) Could he disclose or table the report of the Ministerial Committee of Inquiry into Christian education in Government schools?

(2) What is the Government's attitude to this report in way of partly or wholly adopting or rejecting it?

(3) Is there a standing advisory committee for the same purpose in the Education Department?

(4) If so, who are its members and what have been the recommendations so far?

(5) Can he broadly outline the present situation re religious education in Government schools?

Mr. T. D. EVANS replied:

(1) Yes. A copy of the report will be forwarded to the Member.

(2) Copies have been distributed to various organisations and individuals seeking their comments. A Government decision will be based on the opinions expressed.

(3) The committee which drew up the report has completed its task. Departmental officers will continue to give further consideration to the matter.

(4) Answered by (3).

(5) The Member is referred to parts 1, 2 and 3 of the report.

18. EDUCATION

Free School Books: Tenders

Mr. MENSAROS, to the Minister representing the Minister for Education:

(1) Would he please list the names of tenderers who submitted quotes for supply of school books on his department's tender, quotation number ED 61, setting out the quoted price next to each tenderer?

(2) Were any of these tenders accepted?

(3) If so, which one?

(4) If none of the tenders was accepted did the department proceed with acquiring these textbooks?

(5) If so, did the department acquire the same number and kind of books, or different numbers and only selected kinds out of the total tendered list, and how many and which ones?

(6) What was the total price of each of the categories of books the department did acquire from the tendered ones?

(7) Who were the suppliers of the so acquired textbooks?

(8) How can he justify the policy of the department that prices accepted on quotations are not disclosed even to the participants in the quotation when other Government tenders are publicly displayed in the interest of fair competition?

Mr. T. D. EVANS replied:

(1) to (7) Quotations were called for the supply of approximately 400,000 books in connection with quotation ED 61. These books were detailed in over 50 categories and quotations for all or part of the contract were received from 27 firms. Orders for the books were placed with 11 suppliers. In every case the lowest quotation was accepted. The total value of orders placed under this quotation was in the region of $250,000.

(8) It is Government policy not to divulge particulars of goods purchased under quotation. Fair competition, however, is assured by ensuring that all potential suppliers receive copies of the quotation form and by accepting the lowest prices offered.

This policy is applied by all other Governments throughout Australia and was applied by the previous State Government.

19. COTTON

Production

Mr. NALDER, to the Minister for Agriculture:

(1) How many bales of cotton have been produced by growers on the Ord River irrigation scheme for each year since its inception?

(2) What was the estimated value of the cotton produced for each of the years of production?

(3) What was the estimated amount of financial assistance per bale made to growers by—

(a) the State Government;

(b) the Commonwealth Government,

for each of the years of production?

Mr. H. D. EVANS replied:

(1) Bales of cotton produced each year:

1963-64	1,422
1964-65	6,760
1965-66	12,576
1966-67	17,517
1967-68	17,363
1968-69	14,283
1969-70	13,224
1970-71	17,277
1971-72	15,406
1972-73	14,031

(500 lb bales)

(2) Value of cotton (including lint plus seed) produced:

	$
1963-64	0.23m
1964-65	1.02m
1965-66	1.90m
1966-67	2.63m
1967-68	2.36m
1968-69	1.76m
1969-70	2.04m
1970-71	2.95m
1971-72	2.31m
1972-73 (estimated)	2.80m

(3) The estimated financial assistance per bale:

	State Government	Commonwealth Government
	$	$
1963-64	nil	70.40
1964-65	nil	45.00
1965-66	nil	46.01
1966-67	nil	45.84
1967-68	4.52	27.85
1968-69	25.39	28.33
1969-70	18.74	24.87
1970-71	14.49	22.90
1971-72	16.47	nil
1972-73	16.45 (estimated)	nil

20. HOUSING

Harvey: Applications and Programme

Mr. I. W. MANNING, to the Minister for Housing:

(1) What number of applications for houses in Harvey are currently listed with the State Housing Commission?

(2) What is the building programme for Harvey during the current financial year under the various headings—

(a) rental homes;

(b) purchase homes;

(c) defence service homes;

(d) Government Employees' Housing Authority homes?

(3) Have any inquiries been received from the Harvey Shire area for housing under the proposed industrial and commercial employees housing scheme?

Mr. BICKERTON replied:

(1) Fourteen rental applications and four purchase applications are listed for dwellings in Harvey.

(2) (a) and (b) There are no new contracts programmed for 1973-1974. Five rental houses programmed in 1972-1973 are currently under construction.

(c) This information should be obtained from the Australian Minister for Housing.

(d) As the agency for the Government Employees' Housing Authority, the commission is requested to advise that three houses programmed in 1972-1973 are currently under construction and no additional houses are programmed for 1973-1974. Two houses are to be erected under an arrangement with the local authority and these will be made available for Government Employees' Housing Authority purposes.

(3) No. However, the shire did inform the State Housing Commission in September, 1972, that proposed extensions to the abattoirs of E. G. Green & Sons would cause a greater demand for rental accommodation in Harvey.

21. GRAIN AND SEEDS BOARDS

Amalgamation

Mr. McPHARLIN, to the Minister for Agriculture:

(1) Can he explain why a referendum is to be held when the Grain Pool and other parties involved are still working towards an agreement for a new marketing organisation?

(2) Have members of the Grain Pool, and coarse grains and seed growers in Western Australia indicated their desire for a referendum?

(3) Will the referendum be conducted on a simple "Yes" or "No" vote?

(4) What are the matters of greatest concern in this project?

(5) Will the coarse grain growers be asked to pay for the cost of the referendum?

Mr. H. D. EVANS replied:

(1) to (4) A referendum would not be a simple "Yes"/"No" vote. A referendum is considered desirable because—

(i) Discussions within the working party showed agreement in principle but divergence of views on important issues such as the composition of the new governing body and the method of election of producer representatives.

(ii) With new legislation proposed it was important to determine the attitude of growers towards compulsory acquisition/voluntary pools for particular crops.

(iii) Recently progressive legislation has been opposed in Parliament despite support from producer organisations.

If the disagreements in (i) can be resolved in discussion and adequate advice obtained on (ii) then the decision to have a referendum can be reviewed.

(5) No.

22. RAILWAY DEPOT

Manjimup

Mr. A. A. LEWIS, to the Minister representing the Minister for Railways:

How does the Minister reconcile his answer to part (2) of question 16 on Thursday, 8th November, 1973 concerning the transfer of

the Bridgetown railway depot to Manjimup with the statement he made in June that such examination would be deferred for 12 months?

Mr. TAYLOR replied:

The Manjimup Shire Council, in common with other local authorities in the Bridgetown/Manjimup area, has been aware for some months that a proposal for transference of the depot has been under consideration, and also that the situation would be reviewed again towards the middle of 1974.

It is presumed that the statement referred to by the Member is the one the Minister for Railways released to the *Warren-Blackwood Times* on 25th July, 1973, to this effect.

At the same time, should the proposed woodchip industry eventuate it will be necessary to provide barrack facilities at Manjimup.

23. HARVEST ROAD, NORTH FREMANTLE

Closure

Mr. HUTCHINSON, to the Minister for Works:

(1) Further to the requests and complaints made to him on Monday, 5th November, when a deputation from North Fremantle met him on human problems arising out of the closure of Harvest Road and the reconstruction of Bruce Street, is he aware that as of Thursday, 8th November bulldozers have closed off (I am told without notice) seven houses in Bruce Street from access to public roads?

(2) Is he also aware that apart from difficulties surrounding personal access to their homes these unfortunate people, who are pensioners in the main, will have very real and practical problems associated with the servicing of their homes in regard to matters such as rubbish service, bread, milk and paper deliveries and visits from doctors, visitors, etc.?

(3) As it appears that the comfort, convenience and living conditions of these folk are seriously prejudiced will he urgently request his department for a short-term and long-term solution?

Mr. JAMIESON replied:

(1) Work is in progress in Bruce Street with respect to the construction of the northern approach to the new Stirling bridge. This involves relocation of services, formation and drainage work and pavement construction. Access to the seven houses in Bruce Street between Harvest Road and John Street has been maintained via Harvest Road as it was necessary to raise a manhole in Bruce Street near John Street, thereby preventing access via John Street.

On 8th November work commenced on the reconstruction of the bitumen road fronting the seven houses in Bruce Street, and vehicular access, although difficult at times, was available while work was in progress. Ready access over a new limestone pavement was available from both Harvest Road and John Street from the evening of 9th November.

All residents had received advice of the intended roadworks in July, but with the exception of the occupants of the two properties where a vehicle is garaged, were regrettably not contacted immediately prior to work commencing. All have since been contacted and works discussed.

(2) Inevitably while roadworks are taking place some inconvenience will be caused, but access to the properties will be maintained and there need be no difficulties associated with the servicing of these houses.

(3) Comfort, convenience and living conditions of the residents have not been seriously prejudiced, and care will be taken to minimise the inconvenience while works are in progress.

24. POINT PERON RESERVE

Leaseholders and Marina

Mr. RUSHTON, to the Minister for Recreation:

(1) Will he please list the names of the leaseholders occupying leases on Point Peron?

(2) Will he detail the right of the Community Recreation Council to refuse the establishment of the marina on Point Peron at Shoalwater Bay?

Mr. T. D. EVANS replied:

(1) Community Recreation Council of W.A.
Education Department
War-blinded ex-servicemen
Caledonian pipe band
Royal Perth Hospital Engineers Social Club
Apex
Postal Institute
Lands and Surveys recreation centre
East Perth Football Club Social Club
Sister Kates
Waterside Workers Federation
Seamens Union of Australia
A.I.W. recreation centre
R.S.L. Perth

Point Peron Youth and Family Association
Swan Brewery employees
East Fremantle Football Club Social Club
R.S.L. Rockingham
Congregation of Our Lady of the Missions
Police Union
Church of Christ
Boans Sporting and Social Club

(2) To date no request has been made for permission to establish a marina in relation to the Community Recreation Council lease at Point Peron, although the Rockingham Shire Council could well give consideration to the establishment of such a boating facility adjacent to the recently constructed causeway.

If however the question related to a submission by Marineland of Australia to establish an oceanarium then the following applies—

The land subject of the lease is vested in the Community Recreation Council in trust for the purpose of recreation, and the council, subject to the approval in writing of the Minister for Lands being first obtained, may lease the whole or any portion thereof for any term not exceeding 21 years from the date of the lease, which was 31st October, 1972.

The original lease to the now superseded National Fitness Council from the Commonwealth said that the National Fitness Council could only grant a sub-lease to groups for the approved purpose of youth and community camping projects. Based on this directive a most worthwhile scheme has developed over the years which now provides thousands of people each year with low cost seaside holidays.

The Community Recreation Council considers the present holiday scheme should continue to be developed and therefore it cannot support the use of lease land for a purpose outside the scheme.

25. HEALTH

Cattle Battery, Bedfordale

Mr. RUSHTON, to the Minister for Health:

(1) Has his department investigated whether the cattle battery on lot 52 Water Wheel Road, Bedfordale, is causing a health hazard and polluting Neerigen Brook?

(2) If so, will he table the report?

(3) Has his department confirmed there is no risk of this project polluting the local water supplies of adjacent residents and Neerigen Brook?

Mr. DAVIES replied:

(1) to (3) Yes.

The report was tabled (see paper No. 466).

26. YUNDERUP CANALS DEVELOPMENT

Subdivisional Conditions

Mr. RUSHTON, to the Minister for Town Planning:

(1) What subdivisional conditions have not been completed by Yunderup canals developers?

(2) Why was a special privilege granted the developers to release blocks prior to completion of service conditions?

(3) Is the Government underwriting any expenditure by the Murray Shire Council due to the Government's granting of this special privilege?

Mr. DAVIES replied:

(1) The original conditional subdivisional approval contained 24 conditions, some of which were in several parts. Of these conditions the following have in some sense not been met—

Condition 8:

"Pumps (in accordance with condition (6)) and connecting pipes being installed to the satisfaction of the Public Works Department, and retaining walls adjacent to the pumps being constructed at the subdivider's cost to the specifications approved by that Department. Pumps and headwalls being protected by fences at the subdivider's cost."

This condition has been met though the pumps, which are electrically operated have not yet been connected to SEC power mains. Power reticulation mains have not been constructed as this was not a condition just as it is not normally a condition of subdivision elsewhere.

Condition 11:

"Areas required by the Public Works Department as sites for the erection of water supply head tanks or other similar works being marked 'Water Supply Reserve' on the Diagram of Survey and vested in the Crown under Section 20A of the Town Planning and Development Act."

This condition was not met because the PWD did not require a head tank for the initial water reticulation and understood that, should a tank be needed at a later date it could be sited on an existing reserve. It transpired that the reserve was not available for the purpose, and, very late, the developers were asked to provide another. This they have agreed to do, but the land has not yet been transferred.

Condition 17:

"The existing drain, which crosses the subdivision, being reconstructed at the subdivider's cost to the specification of the Public Works Department (Irrigation and Drainage Section) and equipped at the subdivider's cost, with tidal valves."

Condition 18:

"The 'drainage reserve' as required to accommodate the drain and works specified at condition (17) being shown as such on the diagram of survey and vested in the Crown under Section 20A of the Town Planning and Development Act."

It became necessary, largely for engineering reasons, as work on the project progressed, to consider an alternative arrangement which diverted the drain in question into another on the southern boundary of the subdivision. The new drainage line is now functioning satisfactorily but the channel has not been shaped up in its final form, nor has its future status been established. Negotiations continue.

(2) I doubt whether any of the above conditions could be described as service conditions. This was an unusual subdivision involving exceptional conditions where special arrangements appeared to be warranted.

(3) I do not regard the arrangements made as special privileges, nor am I aware that Murray Shire Council has incurred any expenditure as a result.

27. COUNTRY AND METROPOLITAN HOSPITALS

Bed Occupancy, and Staff

Mr. STEPHENS, to the Minister for Health:

(1) Further to question 4 of Tuesday, 6th November, would he table circulars referred to in circular No. A.3425, namely, A.3423 and 3424, and also state the respective hospitals to which they were sent?

(2) With respect to—

(a) trained sisters;

(b) trained nursing aides,

what was the respective staff establishments and what were the actual numbers employed for the years ended 30th June, 1972 and 30th June, 1973 at country regional hospitals and the major metropolitan hospitals?

Mr. DAVIES replied:

(1) Circulars A.3423 and 3424 and the list of hospitals to which they were sent are tabled.

I might point out that these have no relation to the other circular. The numbers quoted on the bottom of the circular previously tabled relate to a reference system so that every hospital can be sure it has not missed out on any circular it should have received. These have no bearing on the earlier papers tabled, but I seek permission to table them now as they have been asked for.

(2) I seek permission to table the information sought, together with additional staff categories relevant to the nursing situation.

The papers were tabled (see paper No. 467).

28. *This question was postponed.*

29. JUNIOR WORKERS

Rates of Pay

Mr. MENSAROS, to the Minister for Labour:

(1) Does his reported statement that he believes that junior workers doing adult work should receive full adult rates of pay mean that he wishes to legislate for junior rates of pay to be determined by the Minister?

(2) If not, in which way is he going to give effect to his beliefs?

Mr. HARMAN replied:

(1) It is the responsibility of the Industrial Commission to fix rates of pay for juniors, females and adults in awards and agreements. A number of awards and agreements in both the Government and private field of employment already provide for adult rates of pay to apply irrespective of age.

It is not necessary to legislate for this concept except to remove any legislative inhibitions or limitations (e.g., the reason to remove section 144 (2) of the Industrial Arbitration Act in respect to females).

(2) Answered by (1).

30. LOCAL GOVERNMENT

Rates: Deferment by Pensioners

Mr. R. L. YOUNG, to the Attorney-General:

(1) Has he given any further thought to my suggestion that the Government provide letters of indemnity to local authorities to enable them to defer rates for pensioners holding their properties on a purple title basis?

(2) If so, can he say what might be done about this matter?

Mr. T. D. EVANS replied:

(1) and (2) The subject matter has been referred to the Treasurer for consideration.

I might mention that, subsequent to the honourable member raising this matter by way of a grievance debate, I referred it to the Department of Local Government for examination and I reported accordingly last week. That department has now followed the course outlined in the answer.

QUESTIONS (6): WITHOUT NOTICE

1. TOWN PLANNING

Yanchep Sun City: Sewerage

Sir CHARLES COURT, to the Minister for Town Planning:

(1) Does he propose to make a comprehensive statement regarding the circumstances surrounding the current Press comment about sewerage and other matters associated with the Yanchep Sun City project including details of the arrangements approved by the Government and/or M.R.P.A. and the Town Planning Department?

(2) If not, will he table the papers so that the present unsatisfactory position can be clarified in the interests of the corporation, the shire council, and existing and potential residents?

Mr. Bickerton: I would not like to be in your shoes if you were to apply for a tavern license!

Mr. DAVIES replied:

(1) Yes.

(2) Answered by (1).

2. GOVERNMENT DEPARTMENTS

Hours of Business

Mr. O'NEIL, to the Premier:

(1) Since I was unable to make telephone contact with the Department of Labour between 4.30 p.m. and 5.00 p.m. on Thursday, the 8th November, 1973, and because inquiries reveal that this is not an isolated case, can he advise whether there is anyone in attendance at the Department of Labour switchboard during that period?

(2) Since he has given assurances that the staggering of Public Service working hours would not inconvenience the public will he—

(a) advise which departments do not service the public during the luncheon break; and

(b) give details of the hours where each individual Government department is either open to the public or able to be contacted by telephone or otherwise?

Mr. J. T. TONKIN replied:

(1) and (2) Public Service hours of duty have not been staggered. The standard hours have been amended. They are now 8.15 a.m. to 4.30 p.m., with a lunch break from 12.45 p.m. to 1.30 p.m., instead of the former hours of 8.30 a.m. to 5.00 p.m. with a lunch break from 1.00 p.m. to 2.00 p.m. The services available by departments, either within or outside the prescribed hours of duty, and including the lunch break, have not been changed.

In the early period after the change of hours, some departments maintained a switchboard attendant on duty between 4.30 p.m. and 5.00 p.m. to inform callers of the altered arrangements. The Department of Labour did not do this.

3. TOWN PLANNING

Yanchep Sun City: Sewerage

Sir CHARLES COURT, to the Minister for Town Planning:

This question arises out of the answer given to my earlier question without notice. I have not had the Minister's answers delivered to me yet but I understood him to say "Yes" in answer to part (1).

Can the Minister now advise when he proposes to make this comprehensive statement in view of the uncertainty which exists in this area?

Mr. DAVIES replied:

As soon as my inquiries have been completed. It could be within a day, or perhaps two days.

4. "PELICAN" PUBLICATION

Political Use

Dr. DADOUR, to the Premier:

(1) In reference to the latest edition of the *Pelican* does his party sanction one of its endorsed candidates making use for political purposes of a newspaper that he himself regards as so revolting it should not have been printed?

(2) In reference to the latest edition of the *Pelican* will the Premier take steps to ensure that the A.L.P. will not in future use newspapers that are plainly obscene for the purposes of propagating its political beliefs?

Mr. J. T. TONKIN replied:

(1) and (2) Questions which seek an expression of an opinion, or which contain arguments, expressions of opinion, inferences or imputations, are not admissible.

Mr. Thompson: So you support what they did?

5. LAND DEVELOPMENT PROPOSALS

Agreement with Commonwealth: Tabling

Mr. RUSHTON, to the Minister for Town Planning:

(1) Will he please table all agreements and arrangements made with the Commonwealth Government for urban and regional development based upon the agreement of the six States with Mr. Uren, Minister for Urban and Regional Development, at Melbourne from which a communiqué was issued on the 22nd October, 1973?

(2) Will he please table the terms and conditions laid down and commitments made by the Commonwealth Government for the—

(a) immediate Commonwealth Government financial assistance for urban and regional planning and development in Western Australia;

(b) long term Commonwealth Government financial assistance for urban and regional planning and development in our State?

(3) Will he please table all reports on the viability of the Salvado proposals?

Mr. DAVIES replied:

I had these for tabling but, rather than deny the honourable member the right to ask the question, I have saved them to table now.

(1) and (2) With your permission, Mr. Speaker, I table the following documents—

(i) Statement of Land Price Stabilisation Legislation Principles.

(ii) Statement of the Purpose, Structure and Functions of a Land Commission to operate in Western Australia.

(iii) Points of Agreement on Growth Centres.

(3) I table the Cities Commission Report to the Australian Government on a Recommended New Cities Programme for the period 1973-1978.

Other reports are of a confidential nature, having been prepared by consultants for the Australian Government.

The documents were tabled (see paper No. 468).

6. CLOSE OF SESSION: SECOND PART

Legislative Programme

Sir CHARLES COURT, to the Premier:

Last week the Opposition asked some questions regarding the outstanding legislation that has yet to be introduced. The Premier indicated that after the Cabinet meeting yesterday he would be in a better position to give the Opposition an indication of the Bills to be introduced.

Is the Premier in a position to do this now or can we expect the information from him, say, tomorrow?

Mr. J. T. TONKIN replied:

The Leader of the Opposition will recall that he wrote to me about this matter and it was my intention to reply by letter. As he has now raised the matter in a question, I will give him the information.

As far as I can judge, approximately 20 additional Bills will be brought in. This afternoon notice was given of a number of Bills. Subject to the capacity of the draftsman, these measures will be brought in promptly. It is expected that the number to be brought in will not exceed a further 20.

Mr. Nalder: In addition to the ones of which notice was given this afternoon?

Mr. J. T. TONKIN: In addition to those.

BILLS (2): THIRD READING

1. Maritime Archaeology Bill.

2. Museum Act Amendment Bill.

Bills read a third time, on motions by Mr. J. T. Tonkin (Minister for Cultural Affairs), and transmitted to the Council.

EDUCATION ACT AMENDMENT BILL (No. 2)

Third Reading

MR. T. D. EVANS (Kalgoorlie—Attorney-General) [5.16 p.m.]: I move—

That the Bill be now read a third time.

MR. E. H. M. LEWIS (Moore) [5.17 p.m.]: Mr. Speaker, I feel it is necessary to take this last opportunity to express opposition to the Bill, which seems to be the very antithesis of the professed ideal of the Teachers' Union; namely, to improve the quality of teaching in Western Australia. This Bill does nothing at all to achieve that objective.

When he introduced the Bill, and during the second reading debate, the Attorney-General said the legislation had been introduced at the request of the Teachers' Union. I would like to ask the Attorney-General whether this Bill was referred to the Education Department for advice, and what that advice was; also, whether comments on the Bill were sought from the Federation of Parents and Citizens' Associations.

To me, this is a very obnoxious piece of legislation. It sets out by some back-door method to establish compulsory unionism for teachers. Even though the Bill does not say so explicitly, it tells the teachers in plain language that unless they become members of the Teachers' Union it is a waste of time their applying for promotional positions because membership of the union will be a prime factor in deciding who shall be promoted.

Mr. Bickerton: Is that not the case at the university, where one is forced to join the guild?

Mr. E. H. M. LEWIS: I believe one is obliged to join the students' guild. However, at the moment we are not talking about the students' guild; we are talking about teachers and the qualifications required for promotion. The Bill sets out that above all considerations the teacher must be a member of the union.

I feel I must take advantage of this last opportunity to oppose the Bill, and although I do not speak at such great length as previously, our opposition is just as vigorous as ever. We think this is a shocking piece of legislation, and I repeat that the Government will regret the day it endeavoured to pass it.

SIR CHARLES COURT (Nedlands—Leader of the Opposition) [5.20 p.m.]: I want to join with the member for Moore in expressing opposition to this Bill. We expressed ourselves at great length on previous occasions because we regard the Bill as quite diabolical. I am sure the Government does not fully appreciate what it is attempting to do. The Bill is contrary to all democratic principles, and it is contrary to the Government's own policy when it comes to the basic question of promotion within the Education Department.

I have before me a copy of a pamphlet which was used during the 1971 election campaign by the endorsed Labor candidate for Subiaco (Mr. Dennis Kemp).

Mr. T. D. Evans: What happened to him, by the way?

Sir CHARLES COURT: He did not win the seat. This is what he said in his pamphlet—

> The Labor Party is vitally concerned with education!
>
> For years it has been advocating:
>
> . . . Commonwealth assistance in education.
>
> . . . A promotional system for teachers based on ability and qualifications.

I emphasise the words "A promotional system for teachers based on ability and qualifications". It is as well that we keep reminding ourselves—

Mr. T. D. Evans: You conveniently forget about the eligibility bit.

Sir CHARLES COURT: —that the Bill states—

> . . . the efficiency of any eligible applicant who is a member of the Union—

Mr. T. D. Evans: You tried to ignore it the other day.

Sir CHARLES COURT: No, I did not; and I have read *Hansard*. I hope the Attorney-General has taken the trouble to read it. The Bill states—

> . . . the efficiency of any eligible applicant who is a member of the Union is superior to the efficiency of any applicant who is not a member of the Union.

Mr. T. D. Evans: Tell us what "eligible" means; read that out.

Sir CHARLES COURT: I have already read it three times but I will read it again—

> "eligible applicant" means an applicant for a position which has been advertised in accordance with the regulations who possesses the special qualifications, if any, required for appointment to that position as defined in the regulations or referred to in the advertisement of the position.

Mr. T. D. Evans: It refers to "special qualifications, if any".

Sir CHARLES COURT: I am sure the Government does not understand the heinousness of what it is trying to do.

Mr. Thompson: Yes it does.

Sir CHARLES COURT: If it does, it is acting deliberately as a result of a direction received from other places.

Mr. O'Neil: The Attorney-General admitted it was a request of the union.

Sir CHARLES COURT: I am sorry the Premier is not in his seat because members on this side of the House, including myself, have received correspondence and phone calls from people who take strong exception to the remark he made regarding a unionist being a better citizen. This has had reverberations right throughout the community.

Mr. Bickerton: You were a member of the Musicians' Union.

Sir CHARLES COURT: Of course I was. I was a voluntary member and I am now a life member. That has nothing to do with this matter. I was a member because I wanted to be a member. I was a member of the executive and because of the work I did I was made a life member. We are not opposing union membership if people want to join unions, but some people do not want to join unions, and for good reasons.

During the Committee stage of the Bill, my colleague the Deputy Leader of the Opposition said—

> We object to the fact that a person who is a member of the union is suddenly to be regarded as being a more efficient teacher than a person who has equal status in all other respects but who is not a member of the union.

The Premier interjected and said—

> I do not hesitate to say he is a better citizen.

That is the statement which has caused reverberations around the community because people take strong exception to it.

Mr. Bickerton: Do you not think a footballer is a better footballer if he is a member of a club?

Sir CHARLES COURT: He does not have to join the club. How silly can one get! He is not shanghaied into it. If a fellow wants to play hockey, he plays hockey; if he wants to play tennis, he plays tennis; if he wants to play football, he plays football.

Mr. Bickerton: I did not resign from the Claremont club just because you are a member of it.

Sir CHARLES COURT: How futile can one get!

I want to register a protest on behalf of the Opposition, not only against the principles of the Bill but also against what the Premier said, which we regard as being derogatory of people who, for good reasons, are not unionists. Sometimes people do not happen to be members because they are not eligible, but branding them as second-rate citizens has brought reactions, and I can understand why people have very strong feelings about it. I would have strong feelings about it if I were in the same position.

I want to ensure the Government understands we are opposed to the principle, which we regard as being diabolical and undemocratic.

MR. THOMPSON (Darling Range) [5.25 p.m.]: Following the publicity this Bill attracted last week, I received several telephone calls from people who took violent exception to the statement by the Premier that he thought members of a union were better citizens than those who were not members of unions.

Mr. O'Connor: So did I.

Mr. THOMPSON: Some of those people had been members of the armed services but they were not members of the union, and they regarded themselves as being very good citizens.

Mr. Bickerton: They are members of a union more so than members of a union are.

The SPEAKER: Order!

Mr. THOMPSON: The Minister in charge of this Bill indicated that at the present time more than 90 per cent. of teachers are members of the union. In answer to a question I asked, the Premier indicated that 100 per cent. of policemen were members of their union. I know from my own experience that a high percentage of public servants are members of the Civil Service Association.

The Premier went so far as to indicate that a Labor Government would extend into other areas the provision which it now seeks to write into the Education Act.

Mr. T. D. Evans: When and where did he say that? You make a wild assertion. Give me the quotation.

Mr. THOMPSON: In reply to my question, the Premier said he would not be doing it in this session.

Mr. T. D. Evans: That is not saying we are going to do it ever, is it?

Mr. THOMPSON: The Premier said that in reply to a question without notice which I asked. He had considerable notice of the question, and it was a considered reply, from which it is obvious that it is the intention of Labor Governments to extend this provision into other areas.

Mr. T. D. Evans: He did not say that at all.

Mr. THOMPSON: Did he not?

Mr. T. D. Evans: No.

Mr. THOMPSON: Is the Attorney-General ashamed of it?

Mr. O'Neil: He was confining it to the teachers.

Mr. THOMPSON: What is the difference? If the Attorney-General is not ashamed of doing it, why is he so upset that we may take it the provision will be extended to other areas? The Attorney-General is ashamed of what he is doing.

Mr. T. D. Evans: Speak the truth.

Mr. THOMPSON: I have spoken the truth. I have heard members of the Labor Party, particularly in the Federal House, speaking at considerable length and taking many opportunities to point out that things which were being done or were not being done were contrary to the International Convention on Human Rights. I submit this action by this Government is in direct conflict with the United Nations Organisation and its Convention on Human Rights.

Mr. McIver: Are you still growling about the Government?

Mr. THOMPSON: Indeed I am. A Government which will do this will do anything, and I oppose the Bill.

MR. MENSAROS (Floreat) [5.29 p.m.]: In affirming our opposition, I would like to point out one fact which has not yet been canvassed, although the member for Darling Range touched on it very briefly. I point it out because in my experience it is the Labor Party, in both the Federal and State Parliaments, which appears to take tremendous notice of the United Nations Organisation and its resolutions, and refers to them with great frequency. It is only a couple of weeks ago that I attended a function of the United Nations Association in Perth, at which the Premier expressed this as being his own view and that of his Government.

We all know that as far back as 1948 a Declaration of Human Rights was unanimously accepted by the United Nations Organisation. However, because it was not appropriate to ratify or accede to that declaration, it was rewritten in two covenants on human rights, one concerning economic, social, and cultural matters, and the other concerning civil and political matters. Article 7 of part III distinctly states—

> The States Parties to the present Covenant recognise the right of everyone to the enjoyment of just and favourable conditions of work which ensure, in particular:
>
> (c) Equal opportunity for everyone to be promoted in his employment to an appropriate higher level, subject to no considerations other than those of seniority and competence.

The Federal Government of Australia signed this covenant. The Labor Government which succeeded that Federal Government has not opposed or expressed any view against the covenant. In fact, if I understand the situation correctly, the State Labor Government supports the Federal Government in its desire to be a signatory to the covenant.

Mr. Hartrey: Are you submitting that this Parliament should be governed by the United Nations?

Mr. MENSAROS: I am amazed at the somersaulted argument of the member for Boulder-Dundas. Firstly, what he says has nothing to do with the question; secondly, I have not proposed that; and, thirdly, I ask him whether he agrees with the covenants of the United Nations to which Australia is a signatory. I ask him to state whether he agrees with them or whether he disagrees with them.

Mr. Hartrey: Not necessarily.

Mr. MENSAROS: If he agrees with that covenant he has no right to vote for the Bill, but if he disagrees with it he has every right to vote for the Bill. That is the point I make.

MR. T. D. EVANS (Kalgoorlie—Attorney-General) [5.32 p.m.]: The members who spoke to this third reading debate—with the exception of the member for Moore, who at least asked a question of me—have contributed nothing new at all. The answer to the question asked by the member for Moore is: No, I personally did not contact the Federation of Parents and Citizens' Associations to seek its view on this.

As for the other members who contributed to the debate, I think it was purely and simply a matter of false heroics.

Mr. O'Neil: The member for Moore also asked whether you had contacted the Education Department. You didn't answer that.

Question put and a division taken with the following result—

Ayes—24

Mr. Bateman	Mr. Fletcher
Mr. Bertram	Mr. Harman
Mr. Bickerton	Mr. Hartrey
Mr. Brady	Mr. Jamieson
Mr. Brown	Mr. Jones
Mr. Bryce	Mr. Lapham
Mr. B. T. Burke	Mr. McIver
Mr. T. J. Burke	Mr. Sewell
Mr. Cook	Mr. Taylor
Mr. Davies	Mr. A. R. Tonkin
Mr. H. D. Evans	Mr. J. T. Tonkin
Mr. T. D. Evans	Mr. Moiler
	(Teller)

Noes—24

Mr. Blaikie	Mr. Mensaros
Sir David Brand	Mr. Nalder
Sir Charles Court	Mr. O'Connor
Mr. Coyne	Mr. O'Neil
Dr. Dadour	Mr. Ridge
Mr. Gayfer	Mr. Runciman
Mr. Grayden	Mr. Rushton
Mr. Hutchinson	Mr. Sibson
Mr. A. A. Lewis	Mr. Thompson
Mr. E. H. M. Lewis	Mr. R. L. Young
Mr. W. A. Manning	Mr. W. G. Young
Mr. McPharlin	Mr. I. W. Manning
	(Teller)

Pair

Aye	No
Mr. May	Mr. Stephens

The SPEAKER: The voting being equal, I give my casting vote with the Ayes.

Question thus passed.

Bill read a third time and transmitted to the Council.

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 3)

Receipt and First Reading

Bill received from the Council; and, on motion by Mr. Harman (Minister for Labour), read a first time.

MOTOR VEHICLE DEALERS BILL

Second Reading

MR. HARMAN (Maylands—Minister for Consumer Protection) [5.38 p.m.]: I move—

> That the Bill be now read a second time.

This is a Bill to replace the Used Car Dealers Act, which was enacted in 1964 in this State to license and exercise some control over the operation of used-car dealers. It has been administered by the Police Department since its inception. Its provisions at that time could not have contemplated trends which were to develop in the retailing of motor vehicles so as to require different concepts to be considered to cope with consumer requirements and consumer safety.

The proclamation of the Consumer Protection Act on the 11th August, 1972, created the Consumer Protection Bureau in Western Australia, but prior to that date the Department of Labour had an officer carrying out consumer protection functions in a limited capacity from May, 1971. The number of complaints received by the bureau in its early stages of operation highlighted many unsatisfactory features of the car trade, particularly in respect of used vehicles. Misrepresentation and deceptive sales methods employed by dealers and their employees and the sales of unroadworthy and sometimes dangerous vehicles to unsuspecting buyers revealed a dire need to overhaul the legislative machinery to deal with unethical sales practices and provide better safeguards in respect of advertising, warranties, and the standards of roadworthiness of vehicles.

Some of the practices have been referred to in the annual report of the Chairman of the Western Australian Consumer Affairs Council at the 30th June, 1973, and reference to that report will show that consumer complaints relating to transactions in the motor trade comprised over 40 per cent. of all formal complaints received by the bureau in the last financial year. The council had occasion to name certain dealers in its annual report because of most unsatisfactory business methods and deceptive practices.

Perhaps it is not inopportune to mention typical cases which have come to the attention of the bureau. One consumer who purchased a highly priced secondhand vehicle had it independently checked within a short time following the sale, because of dissatisfaction with noises emanating from the engine and an unsatisfactory explanation from the dealer.

The vehicle on inspection was found to be, in fact, an unroadworthy vehicle with several dangerous features including rear brake shoes worn down to the rivets, front disc brake pads worn to almost metal to metal contact, three bald tyres, a vital suspension component missing, and rust in the subframes. Not only was it sold in that condition but it had, according to the consumer, been in the hands of the dealer's mechanic and salesmen on a number of occasions since.

Although he had been promised a warranty, the consumer never received it. The dealer's attitude, initially one of being disinterested in carrying out repairs except at the owner's expense, changed to one of agreement to cancellation of the contract once the Consumer Protection Bureau took action in the interests of the consumer and following adverse publicity given to the case which reflected badly on the dealer concerned.

In a second case a consumer was given a warranty written on the used-car dealer's letterhead paper which stated—

> We undertake warranty on gearbox, diff., and motor for three months from purchase date. Also will repurchase this car at market value if kept in present condition and is well looked after.

Three weeks later the gearbox packed up, as the second gear had stuck. Mechanical opinion obtained showed that the second and third gears were completely worn, whilst the first gear had recently been renewed and obviously some devious repair work had been done on the gearbox.

The purchaser after notifying the dealer had repairs costing approximately $130 made at a country garage. On further approaching the dealer for recompense, the purchaser was told that the dealer's warranty was for a reconditioned gearbox worth $70 and it would cost $2.50 per hour labour, which the consumer must pay. In fact the dealer interpreted the warranty to mean that the consumer should pay $70, plus $2.50 per hour for the dealer's own mechanic to put in a gearbox; stating the car should have been repaired at the dealer's own workshop.

Legal advice was sought but it indicated the futility in seeking a legal remedy because the warranty was so vague. The dealer, in fact, refused to assist the consumer in any way.

In concord with the implementation of a new consumer protection policy in this State, the Government, as part of its progressive policy, had agreed in a somewhat related sphere to a separation of the functions of licensing of motor vehicles, licensing of drivers, standards of roadworthiness, and equipment of vehicles from the Police Department and their transfer to a newly created Department of Motor Vehicles.

In conjunction with these developments, it was considered desirable to review the legislation applying to vehicle trading. In 1972 South Australia brought into operation a Used Car Dealers Act which went far beyond the scope of control over used-car trading ever envisaged by the Western Australian Legislature. Victoria also introduced similar legislation in 1973. Overseas legislation also indicated a need for advanced and more appropriate proposals to provide adequate control.

My predecessor—now the Deputy Premier—arranged for discussions to take place between Government officers and others widely involved in the trade so that recommendations could be made as to the changes deemed necessary to cope with the situation.

On various occasions senior officers of the Police Department, Department of Motor Vehicles, Department of Labour, Crown Law Department, and the executive committees of the W.A. Chamber of Automotive Industries, W.A. Automobile Chamber of Commerce, and the Australian Finance Conference (W.A. Division), met to consider the position and submit views for remedial action.

It can be said that the motor vehicle trade itself was particularly concerned at its own image and the bad reflections which the actions of a minority of unethical dealers and their agents were having upon reputable and well established firms in the trade. The representatives who participated in the discussions covered a wide range of dealers, and they were most co-operative and positive on the views submitted in an endeavour to achieve practical and effective legislation aimed, *inter alia*, at lifting the image of the industry to a much higher and more favourable level.

As a result of those meetings, recommendations were made to replace the Used Car Dealers Act with a redrafted Motor Vehicle Dealers Bill, which would contain substantial and significant changes. It would require the licensing of traders in new vehicles or secondhand vehicles by a motor vehicles dealers licensing board, just as Victoria had done—South Australia covered secondhand vehicle dealers only. The fact that the activity of new car dealing is normally combined with used car trading, influenced the Western Australia decision to include both groups. The new vehicle franchise dealers represented by the W.A. Chamber of Automotive Industries themselves favoured the inclusion of new car dealers within the Bill. Additionally, the provisions of the Bill will extend beyond those of the other two States by recommending the licensing of yard managers and salesmen so as to regulate in some degree the methods and practices of these employees. Trade representatives and consumer representatives will both have representation on the board.

The board will require applicants to satisfy certain requirements prescribed within the Bill to be granted licenses and will also have powers to disqualify license holders for reasons specified. Appeal to a local court is provided for those aggrieved by decisions of the board in refusing licenses and on disqualification.

A dealer means a person who carries on the business of buying or selling vehicles. It includes a financier and a person who engages in the business of auctioning vehicles. For the purposes of the Bill, a financier is defined as a person whose ordinary business is not that of buying or selling vehicles but who does so for the purpose of hiring under a hire-purchase agreement, or effectuating a security over the vehicle, or having to dispose of vehicles after acquiring them by repossession, or voluntary surrender under hiring agreements connected with these operations.

An auctioneer whose main business is not concerned with vehicle auctions but who may irregularly receive a vehicle as part of an estate, etc., for auction, must apply for a license, but can obtain exemption from compliance with the Act and having to hold a license, if he can show that the auctioning of vehicles does not comprise any significant part of his business.

Because of the peculiarities connected with the disposal of vehicles by financiers or at auction, the provisions of part III of the Bill will not apply in relation to the sale of a vehicle as to the particulars to be displayed on the vehicles or the warranty to be given.

That part of the Bill which refers to dealings in secondhand vehicles will relate to passenger cars and their derivatives, such as utilities, panel vans, and station wagons, as well as motor cycles and recreation or camper vehicles. However, provision will be made to prescribe other types of vehicles, as necessary, to be included in this part of the Bill.

When offering or displaying for sale a vehicle of this group, certain particulars must be shown for the information of the intending buyer and certain procedures are required in the making of a sale. In addition, the dealer must disclose with reasonable particularity any defect believed to exist in that vehicle, with an estimate of

the fair cost of repairing or making the defect good. The buyer can then allow for this in deciding on the purchase price.

If the purchaser buys the vehicle with such defects known to him, the dealer is not responsible to remedy them at any future time. Otherwise the dealer is required to give a warranty to the buyer for defects which may occur to make the vehicle unroadworthy or unserviceable—

(a) in the case of the cash price for purchase being over $1,000 and before the vehicle is driven 5,000 kilometres or before the expiration of three months following the sale; or

(b) in the case of the cash price for purchase being less than $1,000 (but not less than $500) and before the vehicle is driven 3,000 kilometres or before the expiration of two months following the sale.

Provision is made in the Bill for rescission of a sale by a local court where misrepresentation can be shown. In such a case the obligations and rights of a purchaser under a hire-purchase agreement are transferred from the purchaser to the dealer and can be enforced against the latter. Undesirable practices will be able to be prescribed by regulation and a substantial penalty is provided against a person committed of an offence for carrying out or giving effect to such a practice.

The principles enunciated in the Bill are aimed at providing sufficient Government control which was requested by all parties, and requiring procedures to be adopted in the retailing methods of dealers which should encourage more ethical standards by operators and assure those who subscribe prolifically to the revenue of the car trade a better deal in the future. The Bill will be administered by the Minister for Consumer Protection through the Consumer Protection Bureau.

The main clauses in the Bill are explained as follows: Under clause 1 the title of the Act as altered by this Bill will be the Motor Vehicle Dealers Act. This new title may assist in eradicating the stigma which is attached to the trade by the use of the words "used cars". The Bill also refers to secondhand vehicles and not used vehicles. Additionally, of course, the definition of "vehicle" includes new vehicles.

Clause 2: The provisions of this Bill are of such a nature as to require certain parts to be brought into operation at different times. For example, it will first be necessary to appoint the licensing board and to set up its administrative machinery for licensing dealers, yard managers, and salesmen. It will be realised that dealers are at present licensed under the current Used Car Dealers Act. However, the qualifications for licenses have altered and in addition there will be in the vicinity of 500 to 600 yard managers and an estimated 1,500 salesmen who will be required to apply for licenses.

Clause 5: The definitions contained in this clause will have more significance when read with the clauses relevant to their use. "Cash price" has been carefully worded to mean the price in relation to a secondhand vehicle at which the vendor is willing to sell the vehicle for cash, as it stands complete with all accessories. The cash price is often the subject of much dissatisfaction and concern, more so when cars of the same model and same year of manufacture can vary greatly in price dependent upon their condition, mileage travelled, etc. This wide difference also makes it difficult to determine a "jacked-up" price.

"Secondhand vehicle" includes a vehicle that has been licensed before being offered for sale not only in Western Australia but also in any other State or territory of the Commonwealth.

"Vehicle" for the purposes of the Act has a wide connotation by including, firstly, a motor vehicle within the meaning of the Traffic Act; and, secondly, a trailer, semi-trailer, or caravan designed to be attached to a motor vehicle. Those vehicles in the second group are ordinarily within the term "motor vehicle" when attached to or drawn by a motor vehicle.

"Year of first registration" and "Year of manufacture" have a definite relationship, but on some occasions it has been found that a vehicle manufactured in a certain year may not be first licensed until one or two years later. Since 1971 manufacturers of new vehicles have been obliged, under the Australian Vehicle Standards Regulations, to fix a compliance plate to the car which shows the year of manufacture. However, vehicles produced before that date will not have this identification, and the year of first registration is then the usual reference. Even this date is not always easy to establish properly, particularly as there are over 100 licensing authorities in this State and vehicle records are not readily available for cars which are taken interstate.

Subclause (3) of this clause makes provision to maintain the onus on the dealer for carrying out certain obligations under this legislation in respect of a vehicle where the financier purchases the vehicle from the dealer in order to finance an agreement in disposing of the car to a third party.

Clause 6: The functions, power, and duties of the Commissioner for Consumer Protection will apply under this Bill as they do in relation to the Consumer Protection Act by sections 19 to 25 of that Act. This relates to the powers to investigate, inquire, and obtain information and as well explains the obligations for secrecy and liability of officers and the Crown.

It is more appropriate to have the same powers apply to both Acts as officers within the Consumer Protection Bureau will be carrying out inspections or investigations required under this Bill. This should help to avoid confusion generally even to the officers themselves.

Clauses 7 and 8 provide for the appointment of a motor vehicle dealers licensing board already referred to. The board will be composed of five members, the chairman being a person appointed by the Governor, whilst three members will comprise one person nominated to the Governor by the Minister from each panel of names submitted by the following bodies—

(i) W.A. Automobile Chamber of Commerce.

(ii) Chamber of Automotive Industries of W.A.

(iii) The Royal Automobile Club of W.A.

The remaining member shall be a person nominated for appointment by the Minister to the Governor to represent the interests of purchasers of vehicles. It may be anticipated that the introduction of licensing will lead to a substantial improvement in trading practices.

Clauses 9 to 14 touch upon aspects concerning meetings of the board, validity of acts by the board, remuneration of board members, duties of the secretary to the board, and powers of the board in dealing with applications for licenses and associated matters.

Clause 15 sets down the qualifications for a person to obtain a dealers license which are based on age—over 18 years—character and repute, and sufficiency in material and financial resources, to enable a dealer to comply with the requirements of the Bill.

Secondly, it also specifies the qualifications for two or more persons who constitute a firm and, thirdly, for a body corporate which applies for a license. Appeals against the refusal of the board to grant a license are covered in clause 22.

Clauses 16 and 17 refer to the qualifications for a license in the case of a yard manager in clause 16, and salesmen in clause 17. Once again they are based on age—over 18 years—character and repute, and sufficient knowledge of the duties and obligations under this Bill.

Clause 18 mentions the matters to be considered by the board in refusing to grant or review a license. The board may use the same reasons to refuse a license as are contained in clause 20 in relation to disqualification. The Commissioner for Consumer Protection is also given the opportunity to submit to the board matters he considers relevant to the application.

Clause 19: General matters concerning licenses are explained in this clause. A license will be effective for 12 months but with the initial issue, staggering of the license for a shorter or longer period is provided to enable the volume of applications to be processed and for expiry dates to be spread for ease in handling in the future.

Clause 20: The reasons for disqualification from obtaining a license or holding a license are specified in this clause. This action can be taken by the board on its own motion or on application of the Commissioner for Consumer Protection. Appeals against disqualification by the board are provided for in clause 22.

Clause 21: The premises at which a dealer is to operate shall be stated in the dealer's application, and provision is made for a certificate of registration to be issued by the board in respect of each of those premises considered suitable for the purpose.

Clause 22: The procedures for appeal to and hearing by a local court are set down in this clause in respect of refusal by the board to grant a license or renewal of license, disqualification from holding or obtaining a license, and refusal to issue a certificate of registration for premises to be used.

Clauses 23 and 24: The particulars to be endorsed on all licenses and the notification of changes therein are explained in clause 23. A register of license-holders and registered premises is to be kept by the secretary to the board in accordance with clause 24.

Clauses 25 to 27: Clause 25 obliges dealers to keep a register in the prescribed form at each registered premises recording every transaction in the course of dealings, at those premises. Persons making a false entry or causing a false entry to be made commit an offence.

Access to dealers' premises will be provided for in clauses 25 and 27 to allow other authorised personnel—police officers—to inspect the register for such purposes as tracing missing vehicles, etc., and proper licensing examination and testing for roadworthiness by the Department of Motor Vehicles and traffic inspectors.

An endeavour is being made in clause 27 to restrict the parking of cars, in the hands of dealers, outside the registered premises. Not only does this practice cause a nuisance by cars being parked in surrounding streets and on footpath verges but the vehicles can escape inspection and examination for roadworthiness, and not be readily available when required for this purpose.

Clauses 28 and 29: The provisions in these clauses are copied from the previous Act to allow authorised officers of the Police Force and Department of Motor Vehicles, and traffic inspectors to affix notices on vehicles examined in a dealer's yard so as to require repair or other attention before sale, in order to make the vehicle satisfactory in regard to equipment, serviceability, or roadworthiness.

It is expected in the near future that the Department of Motor Vehicles will require the examination of all secondhand vehicles subject of sale and transfer at its own inspection stations, at least in the metropolitan area as a commencement, and for standards of roadworthiness to be achieved before transfer of a vehicle license is approved in accordance with section 20B of the Traffic Act—not yet proclaimed.

Clauses 30 and 31: Earlier reference was made to the need for a dealer to be licensed, and the position of a financier and auctioneer was explained in regard to licensing.

The offence for carrying on business in an unlicensed capacity as a dealer has a penalty of $1,000 under the provisions of this clause. Similarly, the penalty in the case of a yard manager is $400 and a salesman $200 with a continuing penalty applied if the offence continues.

The secretary to the board will be authorised, subject to the approval of the chairman of the board, to issue a permit to a person to act temporarily as a yard manager or salesman, provided the person has lodged an application for a license with the secretary. This should avoid any inconvenience to businesses which might be caused if new salesmen were not allowed to operate until their applications were determined by the board, which will meet intermittently.

Clause 32 introduces a part of the Act concerned with "dealings" in vehicles. It applies in relation to any secondhand vehicle in the following categories—

(a) a passenger car;

(b) a passenger car derivative; that is, a utility, panel van, or station wagon;

(c) a motor cycle;

(d) a camper van; or

(e) a vehicle which may be prescribed to be a type of vehicle to which this part of the Bill applies.

This part does not apply to a vehicle of any other class or type, nor does the part apply to the sale of a vehicle by auction, by a financier, or to a dealer.

Clause 33: When a secondhand vehicle is offered or displayed for sale, it will be a requirement to affix to the vehicle a notice in the prescribed form, setting out certain specified particulars; for example, odometer reading, cash price, year of first registration and year of manufacture, vehicle plate license number, etc.

Any statement or representation that is false or misleading, in any particular, will breach the legislation and carry a penalty of $500 where the offence is proved.

When the sale of a vehicle occurs a copy of the above-mentioned notice, signed by the seller, must be given to the purchaser so that the latter will have authentic information of the offer and details represented to him.

Clauses 34 and 35 deal with the obligations of the dealer in respect of the warranty to be given on the sale of a secondhand vehicle, as explained earlier. It was mentioned that defects which are declared and shown at the time of the sale with the estimated cost to make good are excluded from further obligation by the dealer unless the fair cost to repair has been misrepresented compared to the actual cost, which can cause a dispute to arise between the dealer and the consumer. The resolving of disputes is covered in clauses 36 to 38.

Otherwise the dealer is obliged to give a warranty covering defects as mentioned. In this warranty the dealer is not responsible in relation to any defect arising from accidental damage that occurs after the sale, the misuse or negligence on the part of the driver after the sale, or things pertaining to tyres, battery, or any other prescribed accessory.

Clauses 36 to 38: If a dispute arises between a purchaser and dealer when one of the causes specified in clause 36 applies, and neither party objects to submitting the dispute to the Commissioner for Consumer Protection, to have it resolved, his determination—or that of a suitably qualified person he may appoint to hear and determine the matter—shall be binding on both parties.

It has been found in practice that a formal complaint referred to the commissioner by a dissatisfied consumer, who may have already taken his complaint to the dealer without result, has often been settled by discussions between the commissioner's officers and the dealer and it would not therefore reach the level of a formal dispute as provided for in these clauses.

Where either party does not agree to the commissioner hearing and resolving the dispute, clause 38 provides for either party to apply to a local court to hear and determine it.

Clause 39: Earlier it was mentioned that a local court would be given the power to rescind the sale of a secondhand vehicle where misrepresentation in the sale by a dealer can be shown. This clause provides that the grounds for such action are—

(a) that the vehicle is substantially different from the vehicle represented in the notice to be displayed under clause 33; or

(b) where no such notice was displayed, the vehicle sold was substantially different from the vehicle represented by the dealer.

The commissioner, in his discretion, is given the right to apply to a local court and the court may rescind the sale. In doing so it may order that the vehicle be returned to the dealer, and that any consideration paid by the purchaser be returned to him. Any amount which the court thinks fit to represent reasonable value derived by the purchaser from the use of the vehicle, where it has been in his possession for more than a month, can be deducted from the amount the dealer is required to return to the purchaser.

As already expressed, the obligations under any collateral credit agreement associated with the sale shall be transferred to the dealer and may be enforced against him as though he were the purchaser.

Clause 40: Makes it an offence to sell a secondhand vehicle where the license could not be transferred under section 20B of the Traffic Act unless a certificate of roadworthiness is obtained and presented with the application for transfer.

If a certificate of roadworthiness is in force it must be valid for seven days or more and such certificate must be given to the purchaser.

Section 20B of the Traffic Act has not yet been proclaimed but it is anticipated that the Department of Motor Vehicles may soon implement it by proclamation, at least in respect of certificates of roadworthiness for secondhand vehicles to be transferred on sale. When that occurs, clause 40 will also apply and it will then be compulsory under section 20B of the Traffic Act to obtain a certificate of roadworthiness on transfer of a secondhand vehicle unless there is already one in force.

Clause 41: Introduces a part of the Bill which will allow "undesirable practices" to be prescribed. Once the new legislation is put into operation some of the unacceptable practices of the past should tend to disappear, particularly as the board will have the power to refuse licenses and disqualify license holders.

It will therefore require the practices adopted in the trade to be observed carefully in the future before consideration is given to prescribing any undesirable practice. A heavy penalty of $500 is attached to this clause for persons found carrying out any undesirable practice that is prescribed.

Clauses 42 to 44 also come under part IV, "Miscellaneous". Clause 42 sets out that a statement or representation of an employee of a dealer shall be deemed to be also that of the dealer.

Clause 43: Where a purchaser trades-in a vehicle or other thing when negotiating the purchase of a vehicle under a contract or agreement, the dealer must give a written notice to the purchaser of the monetary value ascribed to the item traded in.

Clause 44 makes it invalid to obtain the signature of a person to documents for the sale of a vehicle, including contracts or agreements, unless the particulars are complete. The obtaining of signatures by dealers and salesmen in the past to blank documents has been the subject of much complaint, and disputes have arisen in the accuracy of the detail.

Clause 45 sets down a specific penalty of $400 for breaches of the legislation in wilfully or intentionally enhancing the value of a secondhand car by altering the odometer or misrepresenting other aspects.

In such circumstances, where a dealer or a person concerned in the management or conduct of the business of a dealer is convicted of an offence of this nature, the purchaser of the vehicle may sue for and recover from the dealer so convicted an amount equal to three times the difference between the sale price and its fair value at the time of the sale.

Clause 46 requires a contract for the sale of a vehicle by description to have an implied condition that the vehicle will correspond with that description even though it may be claimed that the purchaser viewed and selected the vehicle.

Where a dealer sells a new vehicle there is an implied condition that the vehicle is of merchantable quality, except as regards defects drawn to the notice of the purchaser before the contract is made or where a person examines the vehicle before the contract is made, as regards defects which that examination ought to reveal.

Any contract or agreement excluding, restricting, or modifying such conditions is void but the provisions of the clause do not extend to a contract or agreement for the hire or sale of a vehicle in the form of a hire-purchase agreement to which the Hire-Purchase Act applies or one in which the vehicle is not a vehicle to which part III of the Bill applies, or is acquired by a person for resale.

Clause 47: The rights or remedies available to persons if this Bill had not been enacted are affected, limited, or restricted only as expressly provided in this Bill.

Clause 48: A person is not authorised to waive any rights conferred on him by this Bill without the prior consent of the commissioner.

Clause 49: A dealer is not entitled to be indemnified for costs sustained by him in the sale of a secondhand vehicle by an antecedent owner, other than a trade owner.

Clause 50 deals with the secrecy required of a board member with respect to information obtained in his capacity as a member. A substantial penalty of $500 is set down for a breach of this clause.

Clause 51 requires the submission of an annual report to the Minister by the chairman of the board, which shall be placed before Parliament.

Clause 52 provides for a general penalty of $200 against a person who is guilty of an offence under the legislation, where no specific penalty is otherwise provided.

Specific penalties have been made much higher, at times, depending upon the gravity of the offence although, conversely, a lower penalty is appropriate; for example—

Clause 14

$400—fails without lawful excuse to attend board as required or failing to produce books, documents, etc.

Clause 30

$1,000 (dealer), acting in this capacity without a license.

$200 (yard manager), acting in this capacity without a license.

$100 (salesman), acting in this capacity without a license.

Clause 31

$400—unregistered premises.

Clause 33

$500—false or misleading particullars in notice attached to vehicle for sale.

Clause 44

$500—submitting incomplete documents to person for signature.

Clause 45

$400—misdescription of vehicle to enhance its value.

Sitting suspended from 6.15 to 7.30 p.m.

Mr. HARMAN: The court is empowered, in addition to imposing a penalty upon a dealer for an offence against the Bill, to order the dealer to pay to the person affected, such sum as the court thinks fit for recoupment of his loss, where that person was defrauded or suffered pecuniary loss by reason of the commission of the offence.

Clause 53 places liability on a yard manager of registered premises for offences against this Bill by other persons employed at premises under his supervision. Where such a person commits an offence in relation to the sale of a vehicle at those premises, the yard manager is guilty of the offence in like manner and he may also be proceeded against and convicted unless he can prove he had no knowledge of the commission of the offence and could not, even by the exercise of due diligence, have prevented the commission of the offence.

Obviously much discretion would need to be exercised by the administering authority in selecting the type of case where a yard manager would be proceeded against, in addition to the actual offender, and the circumstances attached to the case would be carefully considered in making a decision.

Similar circumstances apply under clause 54 with respect to a dealer as they do in clause 53 in respect of a yard manager. The dealer has a liability for offences against the Bill committed by his yard manager, salesman, or other employees and can be proceeded against and convicted notwithstanding that the yard manager, salesman, or employee has not been proceeded against or has not been convicted under the Bill.

Clause 55 explains that where a corporation is convicted of an offence against the Bill, every person who, at the time of the commission of the offence, was a director or member of the governing authority or an officer concerned in the management of the corporation and who authorised or permitted the commission of the offence, is guilty of the like offence.

Clause 56 permits the making of regulations as are necessary or expedient for giving effect to the provisions of the Bill. I commend the measure to the House.

Debate adjourned for one week, on motion by Mr. O'Neil (Deputy Leader of the Opposition).

HIRE-PURCHASE ACT AMENDMENT BILL

Second Reading

MR. HARMAN (Maylands—Minister for Consumer Protection) [7.34 p.m.]: I move—

That the Bill be now read a second time.

The introduction of this Bill to widen the Hire-Purchase Act has resulted from a climate for change which has built up over recent years in all States of Australia in regard to consumer credit law reform. An important step was taken in Western Australia in 1971 when Parliament acted on a motion by a member of the Legislative Assembly and appointed a Select Committee to inquire into all aspects of hire-purchase and other agreements. The Select Committee was subsequently given Honorary Royal Commission status to enable it, whilst Parliament was prorogued, to continue and complete its inquiries, and it presented its report in 1972.

Before proceeding further to explain the Bill, it may be as well to refer to recent reports of other committees in Australia on consumer credit reform which, no doubt, had some influence on the recommendations of the Honorary Royal Commission which examined several of the reports mentioned hereunder.

In 1967 a committee of the Law Council of Australia was first appointed to reply to a questionnaire on "The Law relating to Consumer Credit and Money Lending" issued by a committee of the Adelaide Law School.

In June, 1968, the Law Council committee made submissions back to the Adelaide Law School committee which presented its report to the Standing Committee of State and Commonwealth Attorneys-General in 1969. This report is usually referred to as the Rogerson report, the chairman having been Professor Arthur Rogerson.

After this report had been studied by the Standing Committee, the Law Council of Australia, at the request of the Attorney-General of Victoria, reconvened its committee to act as a working committee to consider whether the new legal concepts proposed in relation to security over personal chattels by the Rogerson report could be established in Victoria. The committee had its first meetings early in 1970 and was chaired by Mr. Molomby, solicitor, and its report issued in January, 1972, is commonly referred to as the Molomby report.

Two of the members of that committee —Mr. McGarvie Q.C. and Mr. Begg, solicitor—presented a joint paper to the 16th Australian Legal Convention in July, 1971, in which they set out their proposals for implementation of fair consumer credit laws. The McGarvie and Begg report attracted wide Press publicity and public comment.

The Molomby report considered the present state of the law in the field of consumer credit transactions as unsatisfactory. The report aimed at suggesting a scheme governing consumer credit transactions which was simple and workable in the world of commerce, being fair to consumers and credit providers alike.

Other reports which were of significance to Australia in considering its consumer credit laws were—

(i) The Crowther committee report on consumer credit (United Kingdom, 1969);

(ii) the Law Reform Commission of Queensland report on a Bill to consolidate and amend the law relating to money lending, 1972;

(iii) the New Zealand contracts and commercial law committee on money lending legislation, 1971.

The Australian Finance Conference—the National Association of Finance Companies —in conjunction with the Faculty of Law, Monash University, Victoria, organised a seminar in Melbourne in March, 1973, so that a wide representation of all interested parties could discuss the basis for achieving uniform and practical credit legislation. By this time, South Australia had passed legislation—in December, 1972—to replace the Hire-Purchase and Money Lenders Acts in that State with a Consumer Transactions Act and a Consumer Credit Act. A number of recommendations of the Molomby committee embodied in the South Australian legislation demonstrated the sweeping changes which seemed to be required in existing consumer credit laws.

A resolution from that seminar was placed before the Standing Committee of Attorneys-General which considered it at its March, 1973, meeting. The Attorneys-General decided to refer the Molomby report to a draftsman to prepare Bills to reflect the recommendations of the Molomby committee. The Attorneys-General of New South Wales, Victoria, and South Australia were appointed a subcommittee to determine policy questions raised by the draftsman.

As far as Western Australia is concerned there is an urgent need to produce some changes in legislation in the public interest, but as there appears to be differences of opinion between States which make it unlikely that any real degree of uniformity can be realised, it has been deemed desirable to proceed with legislative amendments reflecting the main recommendations of the Honorary Royal Commission in this State and to embody those in amendments to the Act to retain the hire-purchase concept.

New South Wales has also indicated that it proposed to retain hire-purchase principles. South Australia has already introduced a Consumer Transactions Act which embraces the Hire-Purchase Act in that State as well as a Consumer Credit Act which embraces the Money Lenders Act. It is expected that the draftsman operating at the direction of the Attorneys-General will not produce draft legislation for some time.

The Western Australian Honorary Royal Commission report at page 74 states—

> The information we have gleaned from all sources available to us, sworn testimony, documentary exhibits, and the reports and treatises which we have quoted, has led us to the unanimous conclusion that in Western Australia the most familiar, and hence most popular, form of instalment purchase is hire purchase and that the most effective means of giving added protection to seekers after consumer credit is to widen the definition and enlarge the scope of hire purchase, and to extend the remedies and immunities at present available to hire purchasers.

A recent alteration occurred in this State in the administration of the Hire-Purchase Act as it was transferred from the Attorney-General to the Minister for Consumer Protection in July, 1973. The provisions of this Act are designed in the main to provide protection for consumers and are more closely connected to the activities of the Consumer Protection Bureau which deals with inquiries and complaints from consumers in the conduct of hire-purchase activities.

Officers of the Department of Labour and its Consumer Protection Bureau have met with representatives of the Consumer Affairs Council, Australian Finance Conference, and the Crown Law Department preparatory to recommending the final proposals.

Many of the questions involved in this type of legislation are as the Western Australian Honorary Royal Commission stated " . . . of far reaching importance to the higher echelons of finance, commerce and industry, as well as to the great majority of ordinary citizens. The fact that other Governments, not only in Australia but in the wider field of the United Kingdom and the United States, have felt impelled to legislate for consumer protection in the sphere of credit purchase, highlights the difficulty of the problem. . . ."

The SPEAKER: Order! There is too much audible conversation.

Mr. HARMAN: The amending clauses of the Bill are calculated to achieve fair contractual provisions for the supply of goods and for the provision of credit. The main clauses are summarised as follows—

> Clause 4: The definition of "hire-purchase agreement" in section 2 of this Act will be extended with a view to avoiding as far as possible the evasion of the Hire-Purchase Act using certain credit-purchase contracts.

The Honorary Royal Commission in recommending a widening of the Act in this direction stated that it had witnesses appear before it who had signed what they believed to be hire-purchase agreements but were, in fact, credit-purchase agreements without the protection of the Hire-Purchase Act or any legislation at all, except that they were subject to the Bills of Sale Act.

By the use of such contracts, stamp duty charges were lower. The Western Australian Act prevented the passing of this duty on to the consumer. In addition, a memorandum of acceptance on the contract made provision for the credit provider to assign to the consumer absolute ownership of the goods, and then by a reassignment, the consumer retransferred ownership to the credit provider. In this way repossession procedures which protected the consumer under the Hire-Purchase Act could be avoided, yet in reassigning the consumer authorised the credit provider, in various circumstances, to repossess the goods without notice and to dispose of and receive all moneys therefrom. As the Honorary Royal Commission stated " . . . that form of contract is a pure fiction"; and it also added " . . . some repossessions had been carried out in circumstances repugnant to elementary humanity".

The references to the "Court of Petty Sessions" will be deleted and the words "Local Court" will be substituted. It is considered that this was anomalous in this State as hire purchase is a civil matter not normally handled in Western Australia by Courts of Petty Sessions. The anomaly probably arose by the efforts in 1959 to achieve uniformity and by reason of the fact that in New South Wales and Victoria there are no local courts, but Courts of Petty Session have civil jurisdiction conferred on them to a limited extent.

Clause 12 and clause 26—to add new sections 12A and 36A—propose to confer jurisdiction on the local courts in these matters. Arrangements will have to be made before the amending Act is proclaimed for local court rules to be made in respect of the jurisdiction.

The interpretation of "guarantor" has been redefined to include an indemnifier. An indemnifier will be treated on the same basis as a guarantor. Clause 17 contains further provisions as to guarantors and it explains the obligations also of the credit provider to the guarantor.

The added definitions of "hire-purchase credit provider", "license", "Registrar", and "Tribunal" will be referred to in clause 20 which proposes to set up a hire-purchase licensing tribunal to license credit providers.

Section 2 (2) of the Act will be amended to include in the taking possession by the owner of goods comprised in an agreement the voluntary return of such goods by the hirer, so that the same protective provisions of the Act can be accorded the hirer in those circumstances, whereas previously the Act provided relief only in the case of compulsory repossession by the owner.

Clause 5 proposes to amend section 3 of the Act to revise the content of a hire-purchase agreement to provide, *inter alia*, for the rate of interest of the terms charges to be shown and for the hirer to be reminded by print in a type of size at least double that of any other type on the form of the differing interest rates between companies and his option to satisfy himself that he is receiving the best deal in interest charges.

Clause 7 proposes to amend section 6 to strengthen the rights of the hirer in the case of misrepresentation by the owner, dealer, or any person acting on his behalf in negotiations leading to the entering into of a hire-purchase agreement. Previously the hirer has had the right against the owner to rescind the agreement by this section but the hirer will now be accorded other common law rights against the owner, such as action for damages for deceit as he also has against the dealer or an agent.

In preparing the draft Bill, the draftsman has had occasion to consult *Hire Purchase Law* Fourth Edition by Else-Mitchell and Parsons, Law Book Company Limited, 1968, which is the most satisfactory text for uniform hire-purchase legislation in Australia and reference to it will show that the amendment follows similar provisions which exist in Queensland.

Clause 11 will amend section 12 (6) concerning the voluntary surrender of goods by the hirer so that protective provisions of the Act can be obtained, as referred to in clause 4.

Clause 12 will insert a new section 12A which requires an owner to seek the consent of the Commissioner for Consumer Protection in order compulsorily to repossess the goods when a consumer has paid 75 per cent. or more of the total consideration. The owner may apply for an order of the local court if he considers the failure or refusal of the commissioner to give his consent was unreasonable in the circumstances.

Clause 15 refers to section 15 of the Act which is concerned with the hirer's rights and immunities when goods are repossessed by the owner. In such cases where the hirer has a right of civil action against the person involved in taking or attempting to take the goods by reason of circumstances arising therefrom, the amendment conveys to the hirer a like right against the owner of the goods.

Clause 17 seeks to amend section 18 to provide for better information to be given to a guarantor by an owner, and for copies of contractual papers to be provided. Enforcement against a guarantor will not be allowed until he is given a copy of the contractual papers. An owner commits an offence for failing to fulfil this obligation to a guarantor. Throughout the Bill there are several amendments to insert the word "guarantor" to ensure that, as an interested party, there is an obligation to keep him informed and supplied with copies of the relevant papers, in like manner to the hirer.

Where a hirer is not of the age of majority—18 years—only a parent or legal guardian can act as guarantor. It has been considered desirable to exercise quite severe restriction on the acquisition of goods by young persons and the Honorary Royal Commission drew attention to several revealing cases involving people in the younger age bracklet and recommended that any contract infringing this condition should be null and void.

Clause 19 repeals and re-enacts subsections (2) and (3) of section 20. It obliges an owner to supply a list of not less than 20 approved insurers to a hirer to enable him to make a choice when insuring the goods which are the subject of the agreement. The credit grantor cannot object to any of these insurers being used. However, irrespective of which insurance company the hirer selects, the owner can still require certain terms and conditions to be inserted in the policy in respect of the risk as he thinks fit.

It is also proposed to add subsection (6) to allow an insurer to pay commission to an owner or dealer in respect of a contract of insurance required under this section, but the aggregate amount of commission paid shall not exceed 20 per cent. of the total premiums under the contract. The same provision applies in section 40 of the South Australian Consumer Transactions Act.

Section 29 (2) of the current Hire-Purchase Act already makes provision for a dealer to receive a commission from a financier for arranging that a consumer obtains his credit from that financier and the dealer guarantees the performance of the agreement by the hirer. A commission not exceeding 10 per cent. of the total terms charges under the agreement may be paid by the financier to the dealer in this case. South Australia has similarly provided this in section 45 (6) of the Consumer Credit Act of that State.

Clause 20 establishes a new Part VA—sections 23A to 23V—in the Act to provide for a hire-purchase licensing tribunal to license credit providers in Western Australia.

The South Australian legislation—the Consumer Credit Act—has been followed in the main. However, this Bill will impart certain powers to the Commissioner for Consumer Protection—in accord with the Consumer Protection Act—to make investigations and inquiries concerning licenses. This was considered preferable to having one mode of operation under that Act and another mode of operation under the Hire-Purchase Act, as this could only result in confusion to all concerned.

It has been decided that the tribunal shall be constituted solely by a District Court judge without representatives of outside groups. A registrar will service the tribunal. It is considered this should prove an expedient and efficient method to deal with licensing. There is a right of appeal to the Supreme Court by a person aggrieved by a decision or order of the tribunal.

Clause 21 seeks to amend section 24 of the Act which relates to the power of the court to re-open certain hire-purchase transactions. The amendment has followed the recommendation that excessive interest charges—in Western Australia referred to as excessive terms charges—were grounds for an appeal that a transaction is harsh and unconscionable but no maximum rate of interest has been specified as in practice it is felt that it would allow unscrupulous methods to be used to attract consumers who may consider that they are being offered a good deal, and may also tend to have the maximum become the minimum.

It is therefore to be left to the court to consider the circumstances of any cases taken before it and to determine whether the terms charges are excessive or that any other provision is harsh and unconscionable so that it would deserve relief being given.

Clause 26 adds a new section 36A to the Act to deal with the circumstances when a hirer, by reason of sickness or unemployment, is unable to discharge his obligations and seeks temporary relief against the consequences of a breach of the agreement in respect of his payments. It empowers the Commissioner for Consumer Protection, after considering submissions of parties concerned in the agreement, to act to grant relief upon such terms and conditions which will do justice to the parties to the contract. In doing so, the commissioner may extend the time for payment of instalments for three months, or in exceptional circumstances, six months.

An appeal to a local court against the decision of the commissioner is available to any party to the agreement and the court may, by order, confirm, vary, or set aside the decision of the commissioner.

This clause also introduces a new section 36B which will require an advertisement by a credit provider to state the terms to be charged in respect of making available credit for specific goods; for example, with motor vehicles—it is not practical to apply this to a range of goods in a general group —the percentage rate of terms charges which must be calculated in accordance with the formula in the fifth schedule to the Act must be stated. This formula is also used in South Australia.

This clause further adds a new section 36C to the Act to apply to various sections of the Consumer Protection Act, 1971, in relation to the functions, powers, and duties of the commissioner under this Act. It was previously mentioned that it is preferable to repeat the same provisions in this Act in this form to avoid any confusion which may arise by having separate provisions in each Act.

Clause 29 adds regulation-making powers to the Act in view of the changes which are contained in the Bill, particularly in respect of the creation of a tribunal and the licensing of credit providers.

Clause 30 provides for changes in the forms in the various schedules to the Act to make for better clarification of the information to be given to consumers and to better align with requirements in the various sections of the Act from which the need for the schedules arise.

Accordingly, the forms in the first schedule—first part—second, and third schedules are repealed and substituted.

A new fifth schedule is provided to set down the formula for the calculation of the percentage rate of terms charges which credit providers are required to state when advertising the availability of credit on specific goods—clause 26—and the hire-purchase agreement in the tabular form—clause 5 (d) (viii). This interest rate is not to be cushioned by the inclusion of other charges.

Penalties: The Bill provides for penalties for breaches of the Act in specific clauses in certain instances which are regarded as sufficiently substantial for this type of legislation. The general penalty, where no specific penalty is provided, will be increased from $400 to $1,000—section 39 of the Act.

Specific penalties in excess of this general penalty are contained in clause 20 of the Bill in respect of breaches. These penalties are as follows—

(i) New section 23D—$2,000—Failing to comply with matters concerning the tribunal.

(ii) New section 23K—$5,000—carrying on business as a credit provider without being licensed.

(iii) New section 23S—$10,000—Conduct of a licensed credit provider on inquiry by the tribunal.

I commend the Bill to the House.

Debate adjourned for one week, on motion by Mr. McPharlin.

BILLS (2): MESSAGES

Appropriations

Messages from the Lieutenant-Governor received and read recommending appropriations for the purposes of the following Bills—

1. Motor Vehicle Dealers Bill.
2. Hire-Purchase Act Amendment Bill.

INDUSTRIAL AND COMMERCIAL EMPLOYEES' HOUSING BILL

Council's Amendments

Amendments made by the Council further considered from the 31st October.

In Committee

The Chairman of Committees (Mr. Bateman) in the Chair; Mr. Bickerton (Minister for Housing) in charge of the Bill.

Progress was reported after the Minister for Housing (Mr. Bickerton) had moved that the following amendments made by the Council be agreed to—

No. 1.

Clause 10, page 6, line 14—Insert after clause designation 10 the subclause designation (1).

No. 2.

Clause 10, page 6, lines 17 and 18—Delete the words "other than attendance at meetings thereof".

No. 3.

Clause 10, page 6, after line 21—Add a new subclause to stand as subclause (2) as follows—

(2) The members of the Authority, other than members who are officers in the Public Service, may be paid and receive such fees and allowances in respect of their services as such members as may be prescribed by regulation.

Mr. BICKERTON: The other evening I indicated, after these proposed amendments had been submitted by the Council, that I was prepared to accept them. On that occasion the Leader of the Opposition pointed out that perhaps it would be wise if I were to obtain some indication from my department whether or not the amendments were acceptable to this Chamber. Of my own volition I had decided to accept them. I also point out that the honourable member who had obtained the adjournment of the debate at the second reading stage was not present and I agreed to report progress to allow the Deputy Leader of the Opposition to study the Council's amendments.

I have since checked with my department and fortunately for me my officers agree that they can see nothing wrong—to any great extent—with the Council's amendments. Therefore, I ask the Chamber to agree to the motion I moved on the last occasion those amendments were before us.

Mr. O'NEIL: The substance of these amendments was referred to by me when this Bill, which seeks to establish an industrial and commercial housing authority, was previously before the Chamber. During the course of the second reading debate I mentioned that it seemed passing strange there is no provision in the Bill to pay the members of the authority that is to be established. By way of interjection, and without a great deal of thought, the Minister said it was not the intention to pay the members of the authority, but at a later stage I understand he indicated it was in fact an omission.

I therefore thank him for accepting the proposition of the Legislative Council to make it possible to pay the members of the proposed authority. I also understand that in another place it was thought that the representative of the Government in that Chamber would move such an amendment. This did not come forward and I further understand that the amendment was moved in another place by The Hon. G. C. MacKinnon.

I do not disagree with the Council's amendments. In establishing an authority as important as this one will be it is essential that the members of it should be highly qualified persons, and one certain way of ensuring that we obtain such persons is at least to make sure that they are reimbursed for any expenses they incur whilst travelling around the country, and that some remuneration is paid to them. It is common knowledge that Government servants who are members of an authority do not receive any pay over and above their ordinary salary, but when outside people are appointed to such an authority to carry out its functions it is only fair and reasonable there should be provision within the law for them to be paid. We have no objections to the Minister's proposal to accept the amendments.

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

Report

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

DEATH DUTY ASSESSMENT BILL

In Committee

Resumed from the 8th November. The Chairman of Committees (Mr. Bateman) in the Chair; Mr. T. D. Evans (Assistant to the Treasurer) in charge of the Bill.

Progress was reported after clause 2 had been agreed to.

Clause 3: Repeal and application—

Mr. R. L. YOUNG: I take this opportunity to point out to the Minister that clause 3 seeks to repeal the greater part of the Administration Act which deals with the assessment of death duties and to suggest to him that the time may come, as a result of amendments made either in this place or in another place, that this clause may have to be studied very closely, because the amendments that may be passed could well have a bearing on what sections of the Administration Act may or may not be repealed.

I make specific reference to pages 11 and 12 of the Bill, because amendments have been placed on the notice paper in respect of what I have claimed to be retrospective legislation. These come under clause 11 and deal with items I enumerated in my second reading speech relating to matters which I feel should not be brought within the jurisdiction of this Bill so that we have, particularly in regard to settlements, a situation where matters that have occurred in the past will now be made subject to this Bill despite the fact that they are irretrievable and irrevocable. Settlements, once having been made, cannot be revoked.

The word "before" used in paragraphs (f) and (g) of subclause (2) of clause 10 virtually brings any settlement that has been entered into already—when those settlements are irrevocable—within the ambit of this Bill and, at a later stage, I propose to move to delete the word "before" in each instance. If I am successful in doing so, so that settlements

already made will then not be subject to this legislation, it may be necessary to amend clause 3 to ensure that the sections of the Administration Act which currently deal with settlements are not completely repealed.

Unless we look at clause 3 at some later stage the position could well be that settlements will not fall within the Administration Act or the Death Duty Assessment Act. I only raise this point now to indicate to the Assistant to the Treasurer that this is something that may have to be examined closely in the light of subsequent events.

Clause put and passed.

Clause 4: Division of Act—

Mr. R. L. YOUNG: Under clause 4 I take the opportunity to point out to the Committee as a whole that the Bill has been drafted in such a way that most of the meat of the measure is contained principally in clause 10, but also some of it is contained in clause 5. In clause 10 there are nine subclauses which should be treated separately for the purposes of Standing Orders, and in subclause (2) of clause 10 we have paragraphs running from (a) to (p). Each of these paragraphs, in my opinion and in the opinion of the Assistant to the Treasurer, should be treated separately because almost the entire Bill is contained within those particular paragraphs. So I seek your guidance, Mr. Chairman, and the concurrence of the Assistant to the Treasurer that we should consider every one of those paragraphs separately for the purposes of Standing Orders.

Mr. T. D. EVANS: I feel obliged to agree with the member for Wembley. As the Minister in charge of the Bill I do not wish to seek shelter behind the Standing Orders in respect of any provision in this Bill, but as the member for Wembley has said, in subclause (2) of clause 10 we have paragraphs (a) to (p) and I consider they should be treated as separate questions rather than call upon every member of the Committee to stand up three times to deal with the clause. I seek your guidance in regard to that, Mr. Chairman.

The CHAIRMAN: I will deal with the matter when we reach clause 10.

Clause put and passed.

Clause 5: Definitions—

Mr. R. L. YOUNG: There is an amendment on the notice paper in respect of this clause which deals with the definitions. One of them defines a dependent child, and I quote—

> "dependent child", in relation to a deceased person, means a child of the deceased person—
>
> (a) who is under the age of sixteen years;
>
> (b) who is under the age of twenty-five years and is receiving full-time education at a school, college or university;
>
> (c) in respect of whom an invalid pension is paid under any Act of the Commonwealth in force from time to time relating to Social Services; or
>
> (d) who has been wholly engaged in keeping house for the deceased person for at least two out of the three years immediately preceding his death;

Just in passing, I am rather glad to see that we are getting back to some sense in referring to the "Commonwealth".

My colleagues and I are of the opinion that it would be wrong for us not to recognise the fact that other children of the deceased person may well come within the provisions of this part of the Bill. On the notice paper I have an amendment to paragraph (b) of the definition of "dependent child" to include an apprentice.

Quite often apprentices are dependent to some degree upon their parents while they are undertaking their trade training and they are not covered under the present provision. We must admit that some apprentices, particularly those in their final year, are probably earning a considerable amount of money, depending on their vocation. However, in the first year or two of their training they could well be considered to be dependants who would quite likely come under this definition. I therefore move an amendment—

> Page 4—Delete paragraph (b) with a view to substituting a new paragraph as follows—
>
> (b) who is a full-time student or apprentice under the age of twenty-five years.

Mr. T. D. EVANS: When dealing with this amendment it is desirable that we consider the principle of the concessions inserted in the Administration Act by the Brand-Nalder Government and also the wording of the proposed amendment. The definition inserted by the Brand-Nalder Government contained no reference to an apprentice and by widening the provision to include an apprentice we will make the proposed deduction of $10,000 automatically apply to an estate of a deceased parent of an apprentice. The Bill intends to double the present amount, but not to alter the principle. The amendment of the member for Wembley does not qualify the word "apprentice".

As I have mentioned, we do not intend to depart from the present principle which is that children of the deceased receiving a full-time education are classed as dependants. This has been because generally such children have no income of their own and need to be fully supported by someone—in the past, by the deceased parent. It is true that in later times a number of parents have been in receipt of Government assistance of one kind or another, but in many cases this is not substantial.

As the member for Wembley himself instanced, apprentices in their final year could be in a different category, but those in their first or second year usually received very little remuneration.

I make the point that I am not opposed to the principle of the inclusion of apprentices because, particularly in the early years of apprenticeship, they are a considerable burden upon their parents. However, I am not prepared to accept the amendment as proposed because it is essential that the wording be clear and precise. The wording at the moment merely includes a full-time student and an "apprentice". The apprentice does not necessarily have to be tied down to any specific apprenticeship agreement or anything like that. A student is qualified as being one who is undertaking a course of study; but the amendment refers only to an apprentice.

I have closely studied the honourable members' amendment and I have discussed it briefly with him. As I say, I am not prepared to accept the proposed amendment, but would accept an amendment to include a new paragraph (c) to read—

> (c) who is under the age of twenty-five years and is employed as an apprentice under an agreement of apprenticeship.

I am not seeking to amend my Bill, but I am offering the hand of conciliation to the honourable member. If he desires to accept that hand and my suggested amendment, the Government is prepared to approve it. The Government is not prepared to accept the amendment as proposed by the member for Wembley.

Mr. R. L. YOUNG: I am grateful that the Assistant to the Treasurer has accepted the principle of my amendment. I do not think there is any doubt about what is a full-time student or what is an apprentice. I am not prepared to move to his Bill the amendment suggested by the Assistant to the Treasurer. If he is not prepared to move it either, I suggest I continue with my amendment. I think the Committee will accept the fact that the principle has been recognised and if he were prepared to move his suggested amendment he would have no argument from those on this side.

Amendment put and a division taken with the following result—

Ayes—22

Mr. Blaikie	Mr. Nalder
Sir David Brand	Mr. O'Connor
Sir Charles Court	Mr. O'Neil
Mr. Coyne	Mr. Ridge
Mr. Gayfer	Mr. Runciman
Mr. Hutchinson	Mr. Rushton
Mr. A. A. Lewis	Mr. Sibson
Mr. E. H. M. Lewis	Mr. Thompson
Mr. W. A. Manning	Mr. R. L. Young
Mr. McPharlin	Mr. W. G. Young
Mr. Mensaros	Mr. I. W. Manning
	(Teller)

Noes—22

Mr. Bertram	Mr. Hartrey
Mr. Bickerton	Mr. Jamieson
Mr. Brown	Mr. Jones
Mr. Bryce	Mr. Lapham
Mr. B. T. Burke	Mr. McIver
Mr. T. J. Burke	Mr. Norton
Mr. Cook	Mr. Sewell
Mr. H. D. Evans	Mr. Taylor
Mr. T. D. Evans	Mr. A. R. Tonkin
Mr. Fletcher	Mr. J. T. Tonkin
Mr. Harman	Mr. Moller
	(Teller)

Pairs

Ayes	Noes
Mr. Stephens	Mr. May
Dr. Dadour	Mr. Brady
Mr. Grayden	Mr. Davies

The CHAIRMAN: The voting being equal, I give my casting vote with the Noes.

Amendment thus negatived.

Mr. R. L. YOUNG: With regard to the definition of "dependent parent" I am not too happy about the fact that one's dependent parent must be tied to an amount of income derived under the Commonwealth pension; nor am I happy about the fact that the definition contains the words "and who was receiving assistance from the deceased person" because one does not know what "assistance" means within the framework of the definition. It could, in fact, be construed as being board paid to one's parent, or it could be one of a number of other things. It is certainly vague when we consider the fact that under the superannuation clauses, for want of a better description, the superannuation is paid to certain persons one of whom is a dependent parent. A person must then consider the definition of a dependent parent which is very vague with the inclusion of the words "who was receiving assistance from the deceased person".

In consequence of the fact that "assistance" has not been defined in any way, and also because it is difficult to understand whether assistance would be covered by board payable by the deceased person to his dependent parents, I intend to move to delete the words "and who was receiving assistance from the deceased person" in lines 36 to 38 of the Bill.

In addition to the fact that the definition of a dependent parent is fairly vague, I do not like the suggestion that parents must be in a state of penury and must be receiving nothing more

than an amount equivalent to the Commonwealth old-age, or social services, pension. If they are earning more than that the State says, "They are earning too much and we will take our grab out of the deceased person's estate."

That is not a particularly good way of looking at what a dependent person may be. In fact, I do not think the words "dependent parent" are necessary in any of the clauses of the measure. A better description would simply be "parent" with no qualifications attached at all. However, perhaps the Minister will not accept that philosophy.

The Minister should, first of all, tell the Committee what "assistance" means within this definition. Secondly, he should tell us why a dependent parent must be defined as only being capable of earning —or only entitled to earn—as much as the Commonwealth pension. Thirdly, the Minister should tell us, if he is not able to satisfy the Committee in respect of the first two questions, whether he favours the deletion which I have foreshadowed and have already stated to the Committee. In this way, at least, one's parents, whether or not they were receiving assistance, could come within the framework of the legislation, wherever the words "dependent parent" are used.

Mr. T. D. EVANS: My philosophy in respect of the proposed definition of "dependent parent" to be found on page 4 of the Bill is the same as the philosophy of the Brand-Nalder Government when it last amended the Administration Act, because the definition in the legislation before us is exactly the same as the definition in the Administration Act.

I consider the member for Wembley should have conferred with his colleague, the Deputy Leader of the Opposition, who is so well versed in workers' compensation law. In that field we find that the definition of "a dependant" is not only explained in the Act but it has been fully and frequently explained in the various law reports and cases arising under that Act.

It is an essential ingredient of "a dependant" that the person who is so described shall be dependent upon another person. In other words, there must be an element of dependence and an element of assistance flowing from one person to the other.

If we were to accept the amendment proposed by the member for Wembley we would delete the essential ingredient of what a dependent person is: someone who receives assistance from another person. As I have said, it is the self-same definition as the one that appears in the Administration Act—and it was inserted into that Act by the Brand-Nalder Government. We are not seeking to alter the definition at all. I cannot see any sense in emasculating the definition of "dependent parent" by taking away the essential ingredient. A dependant is one who receives some assistance from another. If we delete in the manner proposed, we may as well delete the definition of "dependent parent".

Mr. R. L. YOUNG: I well remember that a long time ago Sir Robert Menzies spoke in Forrest Place. He proposed a particularly good philosophy in respect of the coming election and said, "We are going to do so-and-so." Somebody yelled out, "Why did you not do it before?" His answer was well worth remembering. It was: If we did everything "before" there would be nothing to do in the future.

I might add that the legislation under discussion is full of definitions and provisions similar to those in the Administration Act which have caused problems over many years. It is wrong to say, in respect of every piece of legislation, that something is good enough because it has been done before.

Mr. T. D. Evans: I did not say that. I said that it has been examined and it has not been found wanting.

Mr. R. L. YOUNG: That may be the case as far as the Minister is concerned. I find it wanting inasmuch as the Minister did not tell us what "assistance" means.

Mr. T. D. Evans: I suggested you confer with the Deputy Leader of the Opposition. He knows what it means.

Mr. R. L. YOUNG: I am not talking about legislation which has been proclaimed previously. I said this when I rose to speak. Governments make mistakes. Definitions are written into various pieces of legislation. I add hastily that the Minister does at least have on his side that the definition of "dependent parent" would presuppose some form of dependence.

I think the Minister realises I will move my amendment in protest as distinct from pure verbiage, because I do not think we can accept a definition of a "dependent parent" which includes the words "and who was receiving assistance from the deceased person" without asking what "assistance" means. I will move for the deletion for the reason that the definition is not sufficiently well spelt out for the purposes of the legislation. I do not intend to ask the Deputy Leader of the Opposition, as the Assistant to the Treasurer has suggested. I never have and never will ask what past Governments and past Ministers have done. It may well be that this has been done in the past and it may well be that Sir Robert Menzies should have done previously what he said he would do in the future. When a measure is introduced we should not look at what has happened in the past but what will happen in the future. I grant that the definitions in this measure may be included in other legislation introduced by

the previous Government, but this still does not mean to say we cannot improve a definition when writing a new piece of legislation.

Mr. T. D. Evans: I do not think it can be improved upon. That is the whole point.

Mr. R. L. YOUNG: That may be the Minister's opinion. I have pointed out to him that I will move for the deletion of the words purely in protest and not, let us say, in the form of drafting elegance. I know that the deletion of the words will to some degree make a mockery of the definition of "dependent parent".

Let us suppose I gave my parents $2. Under the Bill, as it is written, my parents could have received assistance from me. I do not know whether my executor could claim them, under my will, as dependent parents, because I happened to give them $2 when they were in trouble.

Mr. T. D. Evans: That would be at the discretion of the commissioner. Many other matters are at his discretion.

Mr. R. L. YOUNG: I will deal with this factor in greater detail later. The Minister said it will be at the discretion of the commissioner. All members on both sides of the Chamber, at some time or other, have felt the frustration of wanting to know what the Commissioner of Taxation —whether State or Commonwealth—will do and how he will exercise his discretion in certain circumstances. I understand that the Commissioner of State Taxation, after the legislation has passed both Houses and becomes an Act, will probably issue a public information bulletin.

Mr. O'Connor: Let us hope it does not pass.

Mr. R. L. YOUNG: I understand he will issue this bulletin explaining how he will determine certain matters within the meaning of the legislation. This does not mean that we, as a Parliament, can simply disregard some of the basic precepts we are writing into the legislation. I do not think it is good enough to leave the interpretation of "assistance" to the discretion of the Commissioner of Taxation. I will go into this in more detail later on. The present Commissioner of Taxation is a warm, human person and I do not think he will translate the provisions of the legislation in the way they are written. Heaven forbid that he should. I do not think the Treasurer or the Assistant to the Treasurer would translate them in their pure terms. Heaven forbid that he should. However, this is not the question.

In this place our purpose is to determine not whether the present Commissioner of Taxation, the present Treasurer, or the present Assistant to the Treasurer will interpret the legislation in a specific way but whether some future Commissioner of Taxation, some future Treasurer, or some future Assistant to the Treasurer may desire to interpret the legislation in the way it is written.

I did not want to make that speech in connection with this clause and I will make it again later, even though it may bore the Committee. I will do so because it will be much more important when I speak to a later clause.

It is very vague to say that assistance will be at the commissioner's discretion. The position has probably been vague for many years. With the introduction of the measure we have the opportunity to eliminate this vagueness.

Mr. T. D. Evans: Your proposed amendment will not provide the remedy you are seeking.

Mr. R. L. YOUNG: I do not suppose it will, but I have already told the Assistant to the Treasurer that I will move to delete the words in protest because the deletion will certainly take away, to some degree, the definition of dependency.

Mr. T. D. Evans: It will make a mockery of the definition. You may as well take out the definition.

Mr. R. L. YOUNG: It would not make a complete mockery of it. It would take away some of the dependency which is attached to the provision. By deleting the words we would at least delete one word which neither the Minister, nor the draftsman, nor the Commissioner of Taxation was prepared to define.

Consequently, it is better to move to delete the words and to leave some degree of dependency within the definition than to keep the words in the definition and tie a dependent parent down to someone who was receiving assistance from the deceased person—when we do not know what "assistance" is.

Mr. T. D. Evans: This has been subjected to judicial interpretation; for example, in workers' compensation.

Mr. R. L. YOUNG: Can the Minister give the Committee instances?

Mr. T. D. Evans: There are many cases. The honourable member can refer to the *Western Australian Law Reports*.

Mr. R. L. YOUNG: I consider that the wording in the definition is not sufficient for the Committee to make a decision upon and I do not think the Minister has given an explanation of what assistance is, within the definition. I do not know whether in probate law—

The CHAIRMAN: The honourable member has one more minute.

Mr. R. L. YOUNG: —a Commissioner of Taxation would have to consider dependency in the same terms as someone involved in industrial arbitration.

Mr. T. D. Evans: In workers' compensation.

Mr. R. L. YOUNG: Well, in workers' compensation. I move an amendment—

> Page 4, lines 36 to 38—Delete the words "and who was receiving assistance from the deceased person".

Mr. HARTREY: I am sorry to say that on this occasion the member for Wembley is adopting an attitude which has no real connection with the law. He kept on postulating that the Commissioner of Taxation is going to determine what these words mean.

Mr. R. L. Young: No, just a moment; the Minister said that.

Mr. T. D. Evans: But based on judicial interpretation.

Mr. HARTREY: No functionary of that nature has any such power. The courts will determine what it means. The word "assistance" is a very wide, useful, and charitable one to use. The Assistant to the Treasurer has referred to the Workers' Compensation Act. The original Workers' Compensation Act simply referred to any member of the deceased's family who was wholly or in part dependent upon his earnings at the time of his death.

That led to a controversy as to whether "dependent" meant dependent for the bare necessities of life or dependent for some of the smaller luxuries of life. The House of Lords in England determined that the latter was the right interpretation. However, the Parliament in England expressly legislated that it should mean dependent for the bare necessities of life, and Western Australia legislated the other way; so the definition in our Workers' Compensation Act is "any member of the worker's family who is wholly or in part dependent on or wholly or in part supported by". The second phrase makes a more generous provision than the original one.

Here we have the word "assistance" which is even more vague. It therefore follows that as long as some assistance is given whether or not it is a regular contribution for the necessities of life or for the luxuries of life, and it need not even be a regular contribution, there is dependency under this Act. It obviously means financial assistance; it does not mean assistance by providing a crutch. It means financial assistance and it cannot mean anything else, especially when taken in conjunction with the reference to social service payments, which are clearly financial.

It is a delightfully vague expression which admits of the widest interpretation in favour of the dependant. For that reason it should be adopted and carried, and the objection raised against it by the member for Wembley is entirely ill-founded and shows complete ignorance of this subject.

Sir CHARLES COURT: The comments made by the member for Boulder-Dundas are quite unfair to the member for Wembley. He gives the impression that Commissioners of Taxation and judges are full of the milk of human kindness because the word "assistance" is used. That is not my experience. We have a member of the legal profession supporting the use of this word, while on the other hand the legal profession is usually looking for a tight definition.

It was the Minister who introduced the suggestion of discretionary power as far as the commissioner is concerned. The member for Wembley is seeking to have the Minister be more specific.

Mr. T. D. Evans: I am only following your line, which has not been found wanting.

Sir CHARLES COURT: Why has the Minister all of a sudden fallen in love with the Brand Government's legislation when it suits him? The words the member for Wembley is seeking to delete are "and was receiving assistance from the deceased person". He has made it clear to the Minister that he is seeking some clarification of exactly what is meant, so there will be no uncertainty. The deletion of those words does not make the definition meaningless. According to the definition, a dependent parent is not a rich parent. A rich parent is excluded because of the words which will be left in the definition. Assuming the Minister does not come up with any suggestion as to how to improve the reference to "assistance"—and he has all the drafting facilities at his disposal—

Mr. T. D. Evans: The same drafting facilities as you had when in government, and the same definition as contained in your legislation; and it has not been found wanting.

Sir CHARLES COURT: It is quite flattering that the Minister is so enamoured of what was put into the legislation by the Brand Government.

Mr. T. D. Evans: I cannot recall that you stood up and criticised the member for Greenough.

Sir CHARLES COURT: The Minister is so irrational. We are trying to be helpful and to ensure the definition of "dependent parent" is understood by people in the future. This is what the member for Wembley is trying to achieve by the deletion of certain words.

Mr. Bertram: You are ruining it.

Sir CHARLES COURT: The definition would then read as follows—

> "dependent parent", in relation to a deceased person, means a parent—

These are the crucial words—

> —who is not in receipt of an annual income greater than the maximum rate of pension payable under any Act of the Commonwealth in force from time to time relating to Social Services;

It cannot be a rich parent. It must be a parent who is in receipt of a pension—not under some superannuation scheme but under social services.

Mr. Hartrey: It must be a dependent parent.

Sir CHARLES COURT: It would therefore be a person of no great means.

Mr. T. D. Evans: It must be a dependent parent. Surely you can comprehend that.

Sir CHARLES COURT: The more the Minister opens his mouth the less he appears to know about the Bill. He has said enough already to convince us that he does not properly understand what is in the Bill. I come back to the point that the dependent parent is not a rich person. It is a person who must qualify for a pension under the social services legislation; not even under a superannuation scheme when he might receive an amount equal to several times the pension.

Mr. T. D. Evans: There is the nexus of dependency.

Sir CHARLES COURT: This person must be a parent—not some distant friend or relation—who is so poor or so low in financial means that he or she qualifies for a social services pension. This is the point I am trying to get across. It is not a rich person or a person who has great assets or a considerable income. There are many cases where, had the deceased person continued to live, the parent would have had a great degree of security because of the fact that that person was alive, but the moment that person dies the security behind the parent is removed.

Mr. T. D. Evans: It must be security in the sense that some assistance is flowing from the person who provides the security. If there is no assistance, there is no security.

Sir CHARLES COURT: The Minister is getting all het up over a comparatively small thing. All he is being asked to do is to clarify to this Chamber exactly what "assistance" means. Is it $1 a week, an occasional feed, an odd suit, or a trip each year to the country? Is that "assistance"?

Mr. T. D. Evans: The term "assistance" in this regard has been judicially explained.

Sir CHARLES COURT: Mr. Chairman, I do not know how long you are going to allow the Minister to continue like this, We are entitled to state our case clearly and have it recorded. He does not want it to be recorded.

Mr. T. D. Evans: You should have had your say in 1970.

Mr. R. L. YOUNG: I think I made it clear what my attitude was in respect of what may have appeared in other Acts. I have not at this stage been able to find the definition "dependent parent" in the Administration Act. I do not deny that it is as the Minister says it is.

The member for Boulder-Dundas refered to definitions which were different from this particular definition. He referred to definitions which included the words "wholly or partly dependent upon" and "wholly or partly maintained". It seems to me we are talking about the definition of the simple word "assistance". That is a far cry from "wholly or partly dependent upon", where dependency is written into the qualifying words. The qualifying word in this instance is "assistance". I do not think the same interpretation could be placed upon the words "wholly or partly dependent upon" and the word "assistance". The word "assistance", purely for the sake of describing the form of dependency of the parent, does not in my opinion make for the type of prescription we should be writing into the legislation.

Mr. Hartrey: It widens it and makes it more generous.

Mr. R. L. YOUNG: I do not question that.

Mr. Hartrey: Do you object to our being generous?

Mr. R. L. YOUNG: I think it is extremely generous, but if it is as generous as it appears to be it should not be there.

Mr. Hartrey: Why?

Mr. R. L. YOUNG: One could qualify under this definition by simply being given $1. That is assistance. When we get down to that breadth of assistance, the words are unnecessary.

Mr. Hartrey: If you gave a parent $5 every Christmas it would be sufficient.

Mr. R. L. YOUNG: That is probably right. If that is what is meant, why bother to write it into the legislation? I have known for a long time the meaning of the words "wholly or partly dependent" but I do not know the meaning of the words "assistance from the deceased person". I am waiting for the Minister to produce the definition in the Administration Act. I hope I do not appear to be applying a filibuster. I do not think the definition of "dependent parent" in the Administration Act contains the word "assistance". It probably contains the words "wholly or partly dependent upon the deceased person", if there is such a definition in the Administration Act.

Mr. Hartrey: I was quoting from the Workers' Compensation Act.

Mr. R. L. YOUNG: I know, but several times in the explanatory notes to the Bill it is said certain clauses are simply rewrites of sections of the Administration Act. They are not rewrites at all; on many occasions they change the concept. The

Assistant to the Treasurer claims the definition in the Bill is the same as that contained in the Administration Act. Obviously he has not found it yet, so I will leave it at that. I think the definition is far too wide, and if it means it is sufficient that the parents are given $5 at Christmas I think the words might just as well not be there because they make a mockery of the word "dependent".

Mr. T. D. EVANS: The Commissioner of State Taxation has advised me as follows—

> This provision currently applies and has applied since the last Government amended the law. It has never been criticised and the amendment is unnecessary.

The copy of the Administration Act which I have has been amended up to 1970. I find in section 69E, which has been amended, a definition of "dependent child", but I am not in a position to say whether or not my copy of the Act has been properly amended. I have not been able to discover the definition of "dependent parent" but that is not to say it is not in the Act. I accept the word of the Commissioner of State Taxation that it is in the Act. If my copy of the Act is deficient, the definition will be found in or around section 69E.

Mr. O'Connor: Shouldn't we be sure of our facts, rather than just accept somebody's word without knowing it is there?

Mr. T. D. EVANS: I would think the honourable member would be prepared to accept the word of the commissioner who was appointed by his Government.

Mr. O'Connor: I would if I saw it in the Act.

Amendment put and a division taken with the following result—

Ayes—22

Mr. Blaikie	Mr. Nalder
Sir David Brand	Mr. O'Connor
Sir Charles Court	Mr. O'Neil
Mr. Coyne	Mr. Ridge
Mr. Gayfer	Mr. Runciman
Mr. Hutchinson	Mr. Rushton
Mr. A. A. Lewis	Mr. Sibson
Mr. E. H. M. Lewis	Mr. Thompson
Mr. W. A. Manning	Mr. R. L. Young
Mr. McPharlin	Mr. W. G. Young
Mr. Mensaros	Mr. I. W. Manning *(Teller)*

Noes—22

Mr. Bertram	Mr. Hartrey
Mr. Bickerton	Mr. Jamieson
Mr. Brown	Mr. Jones
Mr. Bryce	Mr. Lapham
Mr. B. T. Burke	Mr. McIver
Mr. T. J. Burke	Mr. Norton
Mr. Cook	Mr. Sewell
Mr. H. D. Evans	Mr. Taylor
Mr. T. D. Evans	Mr. A. R. Tonkin
Mr. Fletcher	Mr. J. T. Tonkin
Mr. Harman	Mr. Moller *(Teller)*

Pairs

Ayes	Noes
Mr. Stephens	Mr. May
Dr. Dadour	Mr. Brady
Mr. Grayden	Mr. Davies

The CHAIRMAN: The voting being equal, I give my casting vote with the Noes.

Amendment thus negatived.

Mr. McPHARLIN: I wish to direct a question to the Assistant to the Treasurer in respect of the definition "gift *inter vivos*". He has referred to the definition of "dependent parent" as being the same as that in the Administration Act, but I could not find that definition in the Act, nor could the member for Wembley.

It appears that the definition of "gift *inter vivos*" in the Bill is almost the same as that in section 74 of the Administration Act, except that in the second-last line of the definition in the Bill the words "*inter vivos*" follow the word "gift".

I ask the Assistant to the Treasurer: Why have those words been inserted there, and do they extend the definition and make it wider than the definition contained in the Administration Act? It appears to me the inclusion of these words will give the definition a wider application so that it will include more dispositions and gifts.

Mr. T. D. EVANS: The definition in the Bill refers to a "gift *inter vivos*"; that is, a gift made during the lifetime of a person. Apparently the honourable member has compared this definition with that in the Administration Act and has found that the words "*inter vivos*" appear in the penultimate line of the definition in the Bill, but do not appear there in the Act. The definition in the Act concludes as follows—

> . . . when the disposition shall be deemed to be a gift to the extent of such inadequacy.

I think the words "*inter vivos*" are an essential part of the definition, and they merely clarify that it is a gift made during the lifetime of a person whose estate is subject to death duty. There is nothing sinister in the inclusion of the words. I suppose it would not really matter if they were deleted. In the notes he supplied to all members, the commissioner did not draw attention to any variation in this definition. I think the inclusion of the words complete the meaning of the word "gift" consistent with the definition.

Having made that explanation, I would like to refer the Committee to the definition of "settlement" on page 6. I seek the concurrence of the Committee to correct a printing error. The word "person" at the end of line 6 should read "person,". Accordingly, I move an amendment—

> Page 6, line 6—Delete the word "person" and insert in lieu the passage "person,".

Amendment put and passed.

Mr. R. L. YOUNG: I too have an amendment to this definition. For the benefit of those members who are not aware of the types of transactions sometimes entered into—I must confess mainly in years gone

by—I point out that one of the common ways of providing for one's dependants was to create what was called "a settlement". Under the settlement a person settled property on a grandchild, child, wife, or some other relative, usually in trust at the direction of a trustee in accordance with the terms of the settlement document.

The definition of "settlement" in the Bill covers every nontestamentary disposition; in other words, every disposition of property that is not made as a result of the death of the person.

Mr. T. D. Evans: Except in one instance —*donatio mortis causa*.

Mr. R. L. YOUNG: That is correct. It does not cover *donatio mortis causa* which, I suppose, is a gift in anticipation of death. However, every other nontestamentary disposition is included within the definition.

Apart from the philosophy of the Bill, I think this definition will have to be amended because every single nontestamentary disposition—every passing over of assets during one's lifetime under some form of trust deed—will be included. The definition does not differentiate between a settlement that is made for full value, one that is made for insufficient value, or one that is made for no value whatsoever; in other words it covers every single disposition.

As we proceed we will find that under clause 10 any disposition of property made within three years of a person's death will be added back into the deceased person's estate: and not only that, but it will be valued as at the date of his death and not at the date the disposition or settlement was made. I will go into some more detail about that later.

During the second reading debate I tried to point out that the Bill is drafted in such a way—perhaps not deliberately—that if the definitions are interpreted in their strictest meaning a person could in fact be taxed twice on the same assets.

A settlement under this definition does not necessarily have to be for no value. It could be a settlement that has been made for full value or for insufficient value. If a person settles his property on somebody, and as a condition of that settlement the second person upon whom the property is being settled, the trustee, or somebody else has to pay the person settling the property the full or part value of the property, then the first person's estate will still be caught up under the provisions of this legislation notwithstanding the fact that he has received the full value or part value for the property settled.

This is a case where double taxation could be imposed, as I indicated in the second reading debate. In this case a person has settled his property, has received payment, and the money received will become part of this estate and therefore death duty is payable on it. In addition to that, under clause 10 (2) (f) this property which is regarded as part of the settlement will be added to his estate as notional property, and so he pays double death duty. The amendment is designed to avoid this.

I am not suggesting that the aim of this provision in the Bill is to impose double taxation. However, many provisions which have been designed for a specific purpose end up by achieving something else in addition. I am not suggesting the clause before us was drafted this way deliberately, but this is the way it reads and the way it can be interpreted by the Commissioner of State Taxation and the Treasury. That is not what Parliament means.

I move an amendment—

> Page 6, line 10—Delete the passage "person;" and insert the following passage —
>
> > person and made either without consideration or upon any consideration other than full consideration in money or money's worth; and where any such settlement is made for a consideration in money or money's worth which is less than the value of the property settled shall be deemed to be a settlement to the extent only by which such value exceeds the consideration;

Mr. McPHARLIN: The member for Wembley has explained his amendment clearly. It means that such settlement would be for the lesser consideration and would, in effect, be limited to gifts. Looking at the words "or of any other person" in line 10 on page 6, they seem to create some confusion. Perhaps the Minister will explain why they have been included in the definition of "settlement".

Mr. T. D. EVANS: The definition in the Bill appears to be identical with that in section 82 of the Administration Act. When the Act was last amended in 1970 I do not recall the Leader of the Country Party asking the then Treasurer for an explanation. I have discussed this amendment with the Commissioner of State Taxation. He has had an opportunity to read the remarks made by the member for Wembley in the second reading debate. I thank the honourable member on this occasion and on other occasions for making his point quite clear, and for giving me the assistance that his explanation offered to analyse his point and to enable the Commissioner of State Taxation to ascertain whether any of the difficulties envisaged had ever been encountered.

I am advised that the commissioner cannot recall receiving adverse comment in the past is respect of the aspect of the definition criticised by the member for Wembley. However, the commissioner mentions

that the situation envisaged by the member for Wembley might occur, but if so it would occur only very rarely. Whilst there is a possibility that some injustice could arise I am prepared to accept in substance the principle of his amendment; but I feel this is not the appropriate provision in the Bill where the amendment should be made.

I draw the attention of the member for Wembley to clause 10 where I think the amendment he has proposed would be appropriate. It would be more appropriate to insert a new subclause after subclause (4) on page 15 to read as follows—

> Page 15—Insert after subclause (4) a new subclause to stand as subclause (5) as follows—
>
> (5) In the case of a settlement made for any consideration in money or money's worth, paragraph (f) or (g), as the case may be, of subsection (2) of this section applies only in relation to the amount, if any, by which the value of the property the subject matter of that settlement, valued at the date of the death of the deceased person, exceeds the amount of that consideration.

Mr. R. L. YOUNG: I thank the Assistant to the Treasurer for accepting the principle involved. It is a principle that was not recognised by members opposite as being valid. The principle of my amendment is similar to the principle in other clauses, in that it seeks to overcome the possibility of double taxation. I accept his advice, and I shall move the amendment in clause 10 to achieve the aim which I am seeking to achieve. On that note I seek leave to withdraw my amendment.

Mr. T. D. Evans: Before you do that I should make one point quite clear. I do not want the member for Wembley to accept the amendment I propose, and then to criticise me later on by saying I gave an undertaking. I have head out the amendment which I am agreeable to accept to clause 10.

Mr. R. L. YOUNG: I have a copy of the Assistant to the Treasurer's amendment, and I have read it. His amendment will achieve what I intended to achieve with mine. I do not see any real difference between the two. If this is the way to get the amendment through, and at the same time to adopt the principle I have outlined, then I am prepared to agree to the amendment of the Assistant to the Treasurer.

Mr. McPHARLIN: Would the Assistant to the Treasurer give me an explanation of the reason for including the words "or of any other person" in the definition of "settlement" on page 6 of the Bill? He said that when the amendments to the Act were introduced in 1970 I did not query the definition at the time. That is so, but I would now like him to clarify the meaning of the words, and to indicate why it is necessary to include them.

Mr. T. D. EVANS: It is obvious that the Leader of the Country Party is not fully aware of the various implications associated with the definition of "settlement". I am sure that both the Leader of the Opposition and the member for Wembley know that if this definition is to be embracing then it is absolutely necessary for it to include the reference to any other person.

Mr. McPharlin: Would this refer to the date of death of any other person?

Mr. T. D. EVANS: This refers to the date of the vesting of the settlement. A settlement does not always vest on the date of death of the settlor.

Amendment, by leave, withdrawn.

Clause, as amended, put and passed.

Clauses 6 to 9 put and passed.

Clause 10: Property comprised in estate for purposes of this Act—

The CHAIRMAN: Before we continue with clause 10 I would point out that, with the indulgence of the Committee, the question will be divided as follows: Each subclause from (1) to (9) will be put separately, and each paragraph of subclause (2) will also be put separately.

I also point out to the Committee that this will be a very difficult clause and I ask members to be tolerant with me as I have been tolerant with them in connection with the Bill. Members wishing to debate the measure can do so at the third reading stage, and I ask them to adhere strictly to the contents of clause 10 because the debate will be fairly confined.

Mr. R. L. YOUNG: If it is agreeable to the Minister, we can go past subclause (1). I wish to speak to subclause (2).

Subclause (1) put and passed.

Subclause (2)—

Mr. R. L. YOUNG: All of the items in regard to this subclause deal with what is known as "notional property". Notional property is that which may not be tangible, and which is not readily touchable by the executor. It is property which has, perhaps, been disposed of by gift.

In many instances in respect of notional property, whether it is a gift or a settlement or a life assurance policy, it is subject to a sort of time test. The test is a three-year period in most cases. I simply put it as a general proposition to the Attorney-General that it is about time we, as a Parliament, recognised that one cannot take an arbitrary time period of three years and say that if one does something now, and lives for another three years, one's estate will escape the consequences of a certain Act.

We have to consider seriously a period of, say, a year as a guideline for the taxing purposes of this Bill. An estate could then be taxed proportionately according to the number of months the person concerned lived thereafter up to three years when it would be free. It so often happens that an estate is assessed on the notional value of property, and cannot bear the tax. If the person had lived another couple of months, in many cases, the estate would have escaped the tax.

We are not legislating in respect of dead people; we are legislating in respect of the people who will bear the burden of the tax. We are legislating for widows and children and, in some cases, friends, associates, and partners who are left with the burden of meeting the tax. To many of those people the tax appears to be terribly unfair and I am sure the Probate Office is besieged with letters asking why the law is written in this way. On many occasions if a husband had lived for another month or two the widow would have been saved $3,000 or $4,000 which she often desperately needs.

The provision has been in the legislation for a long time and the Bill is not breaking new ground. I am quite happy with the three-year time limit, but I do not want it to be a sudden death demarcation—if I might use that term. There should, in fact, be a qualifying period. Obviously, there would have to be a short qualifying period after which there could be applied proportionate tax, say over the next 24 months. The assessment of the estate should be diminished proportionately according to the number of months a person lives. If a person lived for a period of two of the prescribed three years his estate would receive some benefit, and would not be faced with the fact that he did not quite make it.

I know of one case where a person lived for two years 11 months and 15 days of this period. He did not quite make it by half a month and his estate was caught for a considerable sum of money. Unfortunately, the estate indicated that the deceased person was very wealthy whereas, in fact, he was not. Fortunately, this Act allows the commissioner to diminish the amount of duty in respect of certain property values.

When the person died he left a considerable number of shares which, at the time of his death, were worth a fortune. However, the value of the shares fell but the estate was assessed at the value of the shares when he died. The burden of his death could have been lightened in respect of certain gifts he had made, if the time limit period had been staggered, or had been based on a proportionate scale.

I do not suggest that the alteration could be made immediately, although as the Bill still has to pass through both Chambers a new subclause could well be added to provide for this matter.

Mr. O'CONNOR: I am also concerned with the provisions of this Bill. Paragraph (a) of subclause (2) of clause 10 sets out that the following shall be deemed to be property of a deceased person—

> (a) any property the subject matter of a gift *inter vivos* made by the deceased person before, on, or after the date of the coming into operation of this Act within three years before his death, to the extent of the value of the gift at the time it was made . . .

I also know of a case where the widow of a deceased person was particularly hard hit as a result of his death. I refer to Mr. Gaddini who was one of the prospectors who found the Poseidon deposit. I believe that at the time of his death he still held the majority of his 30,000 shares. The duty was assessed on the value of the shares at the date of his death, which was $3,000,000. However, the shares tumbled and by the time they were disposed of his wife was left with virtually nothing. She was a woman who was used to good living but she was left, virtually, penniless.

The Bill provides for the legislation to be retrospective, and there will be no chance of getting out of paying this sort of tax. Mr. Gaddini was a good citizen of this country. He was a prospector who went out and helped to develop the country in many ways. He believed that when he died he would leave his wife in a good position, financially, but that was not the case.

The clause proposes that all dutiable property shall be included in the estate. I do not think there is any exclusion at all. Once again, this is difficult. There is no property whatsoever which will be separately assessed. The estate is to include all real and personal property in Western Australia and personal property outside Western Australia. Who is to know what laws will exist in the other States at a particular time?

There may be double taxation, because the person may have to pay taxation in the State where the property is as well as taxation in Western Australia. Notional property is also included as are gifts over $2,000 if the person dies within three years of the date of the gift. Shares in jointly owned property are included as is property over which another has the power of appointment.

Mr. T. D. Evans: You are ranging beyond paragraph (a).

Mr. O'CONNOR: I am dealing with the whole of the subclause. Annuities come into it. I am certain that many people act justly and legitimately and take out annuities in the belief that these will provide for themselves and their families for a certain period of time. I am quite convinced they would not have done this had they realised that this legislation

would be retrospective and would take their annuities into account. Mr. Chairman, am I correct in dealing with the whole of the subclause?

The CHAIRMAN: The honourable member is dealing generally with subclause (2) and he is quite in order.

Mr. O'CONNOR: Many people take out annuities by paying a lump sum. They do this in the belief that they will receive a certain amount for the rest of their lives. In doing this they believed they would escape duty and would have sufficient money to last them for the rest of their lives and to leave their families in a sound position. The passage of this legislation will leave their families out in the cold, because even the element of annuities will be assessed and taken into the estate. This could gobble up all the balance which is left to certain individuals. We certainly do not want to do that, but the retrospective nature of the provision will have this effect.

This is a particularly bad subclause. I am sure it will be dealt with in greater detail, but I wished to express my opinion and indicate I am very unhappy with the subclause and some of its provisions.

Mr. McPHARLIN: Clause 10 is really the substance of the Bill and the clause which will, I think, cause the greatest amount of debate because, from what was said by the Minister in his second reading speech, it is aimed at private companies which have life governor's shares and other shares to which he referred. Of course these companies have been legitimately structured over the years. The owners—the people who have spent their lifetime, in many cases, building up their assets—sought the best legal advice to enable them to have a company structure arranged so that security would be provided for their families when they passed on. Another reason is that while the owner—the father, in most cases—was living he would have an income to provide for himself and his family.

These private companies have been formed not only in farming businesses but also in many other private businesses because the main aim was to provide that security for the family. In other words, when a person passed on, the death duties which were assessed would not be crippling to the estate. Over the years we have heard of cases where the death duties have been so crippling that part of the estate has had to be sold to pay the probate and enable the business to keep operating. We have not heard of many cases in recent years but I have had an instance given to me of where this has happened.

If the legislation passes in the way in which it is written the effects of it could be rather serious in many ways. It could deprive a family company of the present provisions which allow for certain concessions, and it could have the effect of driving many out of business. They will be forced to sell to others and those others could become bigger. There could be an accumulation of greater properties and, perhaps, larger corporate structures. Perhaps these could be arranged in such a way that they could pay less death duty and be in a more favourable taxation position than a private company.

From my assessment of the legislation, the new provisions presuppose that all the arrangements which have been made by the companies to which I have referred were deliberately and solely designed for the avoidance of tax and probate duty.

Mr. Bertram: That is right.

Mr. McPHARLIN: I am sure the genuine desire is to provide security for the dependants.

Mr. Bertram: Is that not the same thing?

Mr. McPHARLIN: The purpose is to try to maintain the family company and the estate which has been built up over many years of hard work and dedication. This is the prime reason for entering into these arrangements. The need has been seen to provide for those who follow on.

From the way the legislation is framed it seems that the Government maintains that the prime reason has been the avoidance of taxation.

Mr. Bertram: That is so.

Mr. McPHARLIN: I do not think it is.

Mr. Bertram: Most people would believe it is so.

Mr. McPHARLIN: I believe the prime reason has been to provide security for the dependants who follow on after the death of the owner—the parent, or whoever it may be.

Mr. Bertram: They could have achieved that by wording the articles differently.

Mr. McPHARLIN: The articles are usually always worded on the best advice available from members of the legal profession and from accountants who arrange these company structures. Usually, it is quite a costly business to form one. It is necessary to pay registration and stamp duties. All these fees have been paid and, as I have said, it is rather an expensive operation.

Mr. Hartrey: Is the honourable member suggesting that if the legislation is passed lawyers' and accountants' fees should be refunded?

Mr. Gayfer: It would not be a bad idea.

Mr. McPHARLIN: I am not suggesting that, but I am saying it is not an inexpensive exercise to form a private company. Stamp duty must be paid as well as a registration fee. These fees are paid to the Government. Apart from this, accountants' and solicitors' fees must be paid as well.

Mr. O'Connor: It is a terrible clause in its entirety.

Mr. McPHARLIN: I repeat that the prime reason is not to avoid taxation but to give security to the family company, or whatever business it may be. The people concerned have a right to this security.

With the effluxion of time we see inflationary trends and death duties become higher. Inflation will inevitably yield higher probate or death duties anyway. Consequently more income will come into the coffers of the Government, both Federal and State.

However the companies may be structured, there is always this factor to be considered and, here again, the Government benefits through the inflationary trend.

Mr. Bertram: People who set up these companies have a distinct advantage over other people who do not.

Mr. O'Connor: Do not talk only about companies; individuals are involved.

Mr. McPHARLIN: Over the years fortunes and incomes fluctuate, and the value of commodities fluctuates violently from one year to the next. So I do not know that it can be fairly claimed they have an advantage.

Mr. Bertram: They have. That is why they are formed.

Mr. McPHARLIN: The prime purpose is security for dependants. That is why these companies have been arranged, and it is quite evident that this legislation is aimed at those private companies. In his second reading speech the Minister said there were loopholes, and when the Treasurer brought in his Budget he mentioned loopholes. We now know, of course, the loopholes to which he was referring.

Mr. Bertram: That is a generous description of them.

Mr. Gayfer: You are against protecting the farm as a family unit.

Mr. Bertram: No.

The CHAIRMAN: Order! The member for Mt. Marshall.

Mr. McPHARLIN: Surely the member for Mt. Hawthorn would not be opposed to a farmer or an owner of real estate arranging his business in such a way as to protect his dependants. The Bill aims to extract more out of the estate in what I would describe as a rather vicious way. The Government is bringing into the estate the notional property—gifts made within three years, the value of the deceased's share in jointly owned property, property in respect of which the deceased person had given another person power of appointment, property conveyed to another person within three years, and a number of other matters. This is the advice given to me, following expert analysis of the Bill.

The Bill is aimed at those companies and it has caused considerable alarm throughout the areas where these company structures have been in force for years. The Bill does not specify a particular date for commencement of operation. The member for Wembley suggested it should operate after a certain date. That is not stated in the Bill.

By bringing in the notional values mentioned, the Bill aims to take advantage of every company which is in existence. It is causing alarm in many areas where these private companies have been in existence for a number of years, where the parents have grown old and have made arrangements for a source of income. Now that this legislation has become known through the Press, those people have expressed fears that it will take away the protection they have arranged for their own future and for the security of their families after they pass on.

Mr. Hartrey: You seem to live in a perpetual state of fear.

The CHAIRMAN: The honourable member has two minutes left.

Mr. McPHARLIN: With the type of Government we have, nobody could be blamed for living in a constant state of alarm.

Mr. Bertram: There is no need for alarm. It will not become law and you know it.

Mr. McPHARLIN: I am repeating what has been said to me, and the word "alarm" is rather an understatement of the situation. Every day people say to us, "What is happening? We are confused." In the Federal Budget—

The CHAIRMAN: Order! The honourable member must confine his remarks to the Bill before the Chamber.

Mr. McPHARLIN: This Bill has added to the shocks that have been delivered by that particular measure. It will cause more hardship and undermine the confidence of the people.

Mr. Bertram: Talk to Mr. Snedden about that.

Mr. McPHARLIN: It undermines the confidence that was promoted over the years by the previous Government. In 12 years the Brand-Nalder Government created the greatest confidence in this State.

Mr. T. D. Evans: You repudiate some of their actions.

Mr. McPHARLIN: Clause 10 does just the opposite.

The CHAIRMAN: The honourable member's time has expired.

Mr. T. D. EVANS: Members who have spoken on clause 10 have confined themselves to subclause (2). I think it is

necessary to reiterate the broad purpose of this measure. Firstly, its purpose is to double the existing concessions for a dependent widow, a widow with dependent children, and an orphan. I am speaking about the general purposes of the legislation, which must be seen in its proper perspective.

Having made the point that there are certain additions under the legislation which are to be spread right across the board, it is also consistent that equity should be brought about between taxpayers who are to enjoy, right across the board, concessions which are to be doubled. It is that purpose which clause 10 seeks to meet.

I make this point about clause 10 and its various provisions. It has been said this legislation is retrospective. It is not retrospective at all, and those who say it is retrospective do not know the legal significance of the word. It is provided that the legislation will come into operation on the 1st January, 1974, and it can affect only the estates of persons who die on or after that date.

Mr. McPharlin: It brings in their estates.

Mr. Gayfer: What a shocker!

Sir Charles Court: What about the people who have made irretrievable arrangements?

Mr. T. D. EVANS: If it were provided that this legislation would operate from the 1st July, 1973, or some other prior date, then and then only would it be retrospective, and there would be substance in the complaint the Opposition is levelling that someone is changing rules in the middle of the game and giving the players no time to rectify their affairs. We are not doing that at all.

Mr. R. L. Young: Yes you are.

Mr. W. G. Young: That is it exactly.

Mr. T. D. EVANS: If this legislation passed through Parliament a fortnight hence, it would not come into operation until the 1st January, 1974.

Mr. R. L. Young: It concerns transactions that go back for years.

Mr. T. D. EVANS: I make this point: When we discuss paragraph (o) of subclause (2) of clause 10, I will make the offer to the member for Wembley that if he is prepared to withdraw his amendment—and I will give reasons why it should be withdrawn—I am prepared to move, following the passage of the Bill, that it be recommitted for the purpose of providing that the provision in paragraph (o) will not come into operation until 12 months after the other provisions of the Bill have come into operation. Assuming the other provisions come into operation on the 1st January, 1974, the provision in paragraph (o) would not come into operation until the 1st January, 1975.

This will allow time for the people concerned to rectify and amend their estates and affairs. I have spoken generally to the clause, but I assume specific amendments will be sought. I will concern myself with these as they arise.

Mr. R. L. YOUNG: At this stage we have been speaking generally to subclause (2), and we have agreed to deal with each paragraph separately. If the Assistant to the Treasurer and other members do not object. I am quite happy to agree to paragraphs (a) and (b) and to move on to paragraph (c).

Paragraphs (a) and (b) put and passed.

Paragraph (c)—

Mr. R. L. YOUNG: The comments made by the Assistant to the Treasurer a few moments ago refer to a number of the paragraphs of this subclause. I believe we will have ample opportunity to prove that retrospectivity does not mean that we should catch the estates of people who died many years ago, but that the essence of retrospectivity is in respect of the notional property we are discussing in this particular subclause. The concept of notional property is determined by a certain event when a contract is entered into, or before, a share is taken up. Such actions may have occurred many years ago, but this legislation seeks to include them in an estate. This measure provides that a contract entered into, or a family company arrangement made 20 years ago could be take into account.

Mr. Hartrey: That is not retrospective legislation.

Mr. R. L. YOUNG: I will not deal with that; I will speak to paragraph (c). We will be able to make the point about retrospectivity later.

Paragraph (c) refers to notional property which will be brought into a person's estate in respect of an alienation of income-producing property or power of attorney over income-producing property. In effect, the paragraph says that a person who has entered into an arrangement whereby he alienates certain property within a certain period, or if he was given a power of attorney over that property whereby the person to whom he has given the power of attorney has not complete disposition of that property, then that property will become notionally assessed within the person's estate when he dies.

I have raised this particular point with the Assistant to the Treasurer because it appears that the Bill will not do what he says it will do. It does not matter what the explanatory notes say it will do because subparagraphs (i) and (ii) are made concommitant by the interlocking word "and" In other words, both conditions must be met before the exemption will be given under this paragraph. This means that any property such as I have just described will be assessed into a deceased's estate unless it can be proved on the one hand

that the person who received the power had in fact had the power of disposition over the property and received the rents, dividends, etc., and—not "or" but "and"—the power was exercised by the donee not less than three years before the death of the deceased.

In the explanatory notes which were provided to us at the time of the introduction of the Bill, this particular paragraph was described as I have stated it. However, the notes then go on to say—

> Subparagraph (i) excludes the type of limited power described and subparagraph (ii) excludes powers given over three years before the date of death.

Quite clearly the intention is that either one of those two exclusions will be enough to satisfy the commissioner. However, that is not the way the Bill is written and it is not written the way it was intended to be written. I know that for a fact.

For these reasons I believe that the word "and" interlocking these two subparagraphs should be "or". This would provide that a person must satisfy the commissioner, or prove to the commissioner, that either one of these two particular exemptions applies. If the commissioner accepts this, the estate will not be assessed. Members will see that the subparagraphs should provide alternative, and not concomitant, conditions.

Mr. T. D. EVANS: I am not convinced that the word "and" will create the hardships envisaged by the member for Wembley. Further, I am not convinced that the draftsman intended to provide alternatives.

Mr. R. L. Young: That is what the explanatory notes say.

Mr. T. D. EVANS: I am not convinced it is so.

Mr. R. L. Young: You should not have circulated the explanatory notes if they are not correct.

Mr. T. D. EVANS: I am prepared to have this point examined. If it is considered necessary, we can recommit the Bill.

Mr. R. L. YOUNG: I intend to move the amendment I have foreshadowed because I believe sufficient notice of this has been given in one way or another. There is no need for any further study of the wording because the matter was canvassed earlier. The explanatory notes set out quite clearly that the burden of proof will be satisfied if the commissioner believes that either of these two exemptions applies. If that is so, the word "and" must be deleted and the word "or" substituted. If it is not so, we should not have been given explanatory notes.

I point out to the Assistant to the Treasurer that he cannot have it both ways—both the Bill and the explanatory notes cannot be correct. If the explanatory notes are incorrect, the Assistant to the Treasurer should say so. If the Bill is incorrect, we should be told. They cannot both be right. I move an amendment—

> Page 10, line 36—Delete the word "and" with a view to substituting the word "or".

Amendment put and negatived.

Paragraph put and passed.

Paragraph (d)—

Mr. R. L. YOUNG: This paragraph deals with annuities, and the explanatory notes set out the reasons for its inclusion. I believe it would be accepted by almost every legal practitioner, accounting practitioner, trustee in executorship, executor and administrator, and anyone else who deals with estates of deceased persons, that the paragraph was inserted on a completely arbitrary basis. I intend to move the amendment standing in my name on the notice paper, but only if I am unsuccessful in my attempt to have the paragraph deleted.

A person who buys an annuity—he might spend his entire life savings upon it—with the intention of having that annuity provide for him for the rest of his life, but who does not live for three years after the date of purchase of the annuity, will have the total purchase price added to his estate, notwithstanding that the estate cannot get his money back. An executor cannot go to the life assurance company and say, "Look, the deceased person bought this annuity, but we want our money back"; because once a person buys an annuity, the money is gone. In effect, the assurance company has accepted the risk and bet the person that he will not live for a certain number of years. If the person does live for those years he does well out of it, but if he dies within a short period his estate does not do well.

It is bad enough that a person might lose his bet and receive only a few short years of income from a large capital outlay; but it is worse when the Government says not only has his estate missed out on that income, but it is now going to add to his estate the price he paid for the annuity. Paragraph (d) is absolutely absurd. I believe it has been written into the legislation on the basis of one case in which a person who obviously did not have much life expectancy purchased an annuity.

Mr. T. D. Evans: It was a bad case.

Mr. R. L. YOUNG: I agree; and it is possible that it could happen again. I feel that the life assurance company which entered into that transaction should not have done so. I can accept that a company might do so for a client of many years standing. It might agree to arrange his affairs in such a way as to avoid the greatest possible amount of death duty. However, I do not agree with this; I think it is wrong; and the life assurance

company which entered into that transaction should be censured for doing so. I do not think many reputable companies would do it.

But that is not the question. The question is that if we are trying to cover the one instance—and the Commissioner of State Taxation and the Assistant to the Treasurer have admitted that it was one instance—

Mr. T. D. Evans: Yes, but it could be repeated.

Mr. R. L. YOUNG: It may be repeated, but this is a classic example of a provision being drafted to cover something that has happened once and possibly could happen again; and in the determination to catch these few people we will catch every person who enters into a bona fide transaction to purchase an annuity.

A perfectly innocent person may buy an annuity and if he does not live for three years his estate will be lumped with the entire purchase price of the annuity. That is not only absurd, but it is immoral for Parliament to pass such legislation. It is immoral because we are admitting that we are not good enough to write better legislation. It is one thing to try to catch one person, but it is another thing to catch everyone in the process of catching that one person. The provision casts a huge net to catch a sprat, and it will also catch every other fish in the sea. The Assistant to the Treasurer will know that at least he has caught his sprat, even if he has to catch every other fish in the sea in doing so.

When I referred to this clause—I think it was this one—in my second reading speech, the Premier said he had been listening carefully to my remarks and he did not think I was right. There is no question of my being right; the question is whether the Government is prepared to justify a provision that will catch everyone for the sake of catching one or two. It is not a question of whether my interpretation is correct; that is beyond doubt, as I think the Assistant to the Treasurer will agree. It is a question of saying that we want that person and if we catch everyone we know we will have caught him. That is how absurd the provision is.

Recently I was talking to a person—no names, no pack drill—who expressed the desire to buy an annuity. He is a person who is at least in a broad way connected with this legislation, and he was not aware that he would be caught under this provision along with everybody else. This is an example of the eagerness of the Government to go after the few and its preparedness—although perhaps not its intention—to catch the lot in so doing.

Bearing that in mind, I do not think the Assistant to the Treasurer has any moral grounds to object to the deletion of the paragraph. I do not suggest that he should not have the power to draft a provision which will cover the incident he described, but if that provision cannot be drafted with all the expertise of the Crown Law Department, then it should not be drafted. As we have no evidence that the Government is capable of drafting such a provision, the only thing the Committee can do is vote against the absurd proposition that everyone who buys an annuity and does not live for three years from the date of purchase will have the sum total of the annuity added to his estate, notwithstanding the fact that he can never get his money back. I intend to move an amendment to delete paragraph (d).

The CHAIRMAN: I advise the member for Wembley that if he moves to delete the paragraph and is unsuccessful it will not be possible for him to proceed with the amendment to the first line of the paragraph standing in his name on the notice paper. I suggest that he moves to delete the words "any property that".

Mr. R. L. YOUNG: If I move for the deletion of the paragraph and I am unsuccessful, will not the question then be that paragraph (d) stand as printed, in which case I could move the amendment on the notice paper?

The CHAIRMAN: No, you could not, because once the Committee agrees that the paragraph stand as printed we cannot go back again. I suggest that you move the amendment I proposed in order to test the feeling of the Committee.

Mr. R. L. YOUNG: Then I will move to delete the passage "before," in line 1.

The CHAIRMAN: No, move to delete the words "any property that".

Mr. R. L. YOUNG: Firstly I would like to have paragraph (d) removed altogether; and if I am unsuccessful in that I would like to delete the passage "before,".

I am afraid I will have to get something recorded in *Hansard* to obtain some clarification. If I move for the deletion of the first three words in line 1 of this paragraph I cannot see what that will achieve.

The CHAIRMAN: It will give you an opportunity to move the amendment you seek. If you move for the deletion of the whole of paragraph (d) and the Committee agrees that the paragraph shall remain in the clause you will be unable to move your amendment.

Mr. R. L. YOUNG: If I move to delete the word "before" I could then move to delete the whole of paragraph (d).

The CHAIRMAN: You could not, because you would be retracing your steps.

Mr. R. L. YOUNG: With all due respect to you, Mr. Chairman, I accept your ruling. The step seems absurd but if it achieves the objective, I move an amendment—

> Page 11, line 1—Delete the passage "(d) any property that".

Mr. T. D. EVANS: With all due respect to you, Mr. Chairman, the amendment proposed by the member for Wembley seems to have been invented by you and patented by the honourable member to emasculate or strangle the whole clause, and I have his message. This clause, in fact, represents a rewording of section 57 of the principal Act. It is intended to bring into the estate "any property that, before, on, or after the date of the coming into operation of this Act passes under any conveyance, or by means of any legal or equitable alienation made by or with the authority or direction of the deceased person within three years before his death in consideration of annual or other periodical payments which are to be paid to him, to any other person nominated by him; or to him and to any other person nominated by him;" but, of course, the member for Wembley did not dwell upon the extent to which such alienated property exceeds the aggregate amount of any such payments made before the death of the deceased person.

It is important to realise that there is a limit on the property that comes back into the estate. Be that as it may, the purpose of the legislation is to extend further benefits across the board to the general advantage of all taxpayers and it is intended that all taxpayers shall share an equitable burden in providing death duty funds, hence the law as written in section 57 of the principal Act. I admit that the case that has been cited is a particularly bad one; I do not think even the Leader of the Country Party could defend a case as bad as that; and there could be others. From what I have said it is obvious that the Government cannot accept this amendment. In principle it is an amendment, but if one looks at it in detail it is a strange amendment, with all due respect to you, Mr. Chairman. We cannot accept it.

Mr. R. L. YOUNG: The example cited by the Assistant to the Treasurer in giving a reason why he would not accept my amendment in that it meant an emasculation of the clause, is quite incorrect, because paragraph (d) is not in any way a rewording of part of section 57 of the Act.

Mr. T. D. Evans: I am not saying it is an exact repetition, but that it is a rewording.

Mr. R. L. YOUNG: The Assistant to the Treasurer was trying to give that impression, and the impression was also given by the explanatory notes the Minister used in his second reading speech. One of the incredible features about this Parliament is that a Minister can read a second reading speech and provide explanatory notes to the second reading speech which bear little resemblance to the Bill itself, which is rather complicated, and it is upon the provisions contained in the Bill that the courts will make their decisions. It is incredible that the Press will print what the Minister says the Bill will do and the public at large are expected to believe that the explanatory notes are the same as what is in the Bill, but they are not.

The Minister has just said that this provision is a rewording of section 57 of the Act, but this paragraph in no way resembles section 57 or will achieve what section 57 now does. It is a complete switch. The amendment which I propose to move later will have that effect; it will bring the provisions back to what the Administration Act does, but what the Bill seeks to do is to catch those people to whom I have been referring.

I am getting a little fed up with the references to this Bill; and the statements that the provisions are simply a rewording of what is in the Act, because they are not rewordings; they are complete switches of the sections in the Act in principle, and in fact. It is of no use the Assistant to the Treasurer saying that these clauses are rewordings of the sections in the Act, because the use of the word "rewording" gives one the impression that the sections in the Act will not be changed. I can reword "Mary had a little lamb" and make it sound like Henry V's address to his troops before they went into the battle of Agincourt.

Mr. T. D. Evans: I would like to hear you.

Mr. R. L. YOUNG: I may have a go at it later, but if I did, it would be a completely different speech.

Mr. J. T. Tonkin: What is a rewording then?

Mr. R. L. YOUNG: A rewording would be a change in wording without changing the meaning—without changing the spirit and principle of what was there before. A complete change which changes the spirit and principle of the original wording is not a rewording.

Mr. J. T. Tonkin: But a rewording must be a change in wording. It cannot be anything else—otherwise what would be the purpose of it?

Mr. R. L. YOUNG: The Premier is trying to get us back to Agincourt. Quite clearly this particular paragraph is obnoxious because it will catch people who do not deserve to be caught. It is all very well for either the commissioner or the Minister to say, "I know it does that, but I will not use the provision to do that", because we all know from experience that commissioners die, Ministers die, and Governments change.

A future commissioner might decide that he will tax a person based on the wording of the legislation. I can quote examples where that has happened. In such cases the court has held that what appears in the Act is what it has to determine. The commissioner might tax a person, and the person takes the case to court. The court would invariably say that the Act was quite clear, and the tax

on the estate would be upheld. This will happen under the Bill, but the Assistant to the Treasurer does not intend that to happen. The commissioner does not intend to use the provision in that manner, but I would point out that here we are writing the law which will be determined by courts in accordance with the wording.

Amendment put and a division taken with the following result—

Ayes—23

Mr. Blaikie	Mr. Naider
Sir David Brand	Mr. O'Connor
Sir Charles Court	Mr. O'Neil
Mr. Coyne	Mr. Ridge
Mr. Gayfer	Mr. Runciman
Mr. Grayden	Mr. Rushton
Mr. Hutchinson	Mr. Sibson
Mr. A. A. Lewis	Mr. Thompson
Mr. E. H. M. Lewis	Mr. R. L. Young
Mr. W. A. Manning	Mr. W. G. Young
Mr. McPharlin	Mr. I. W. Manning
Mr. Mensaros	*(Teller)*

Noes—23

Mr. Bertram	Mr. Hartrey
Mr. Bickerton	Mr. Jamieson
Mr. Brown	Mr. Jones
Mr. Bryce	Mr. Lapham
Mr. B. T. Burke	Mr. McIver
Mr. T. J. Burke	Mr. Norton
Mr. Cook	Mr. Sewell
Mr. Davies	Mr. Taylor
Mr. H. D. Evans	Mr. A. R. Tonkin
Mr. T. D. Evans	Mr. J. T. Tonkin
Mr. Fletcher	Mr. Moller
Mr. Harman	*(Teller)*

Pairs

Mr. Stephens	Mr. May
Dr. Dadour	Mr. Brady

The CHAIRMAN: The voting being equal, I give my casting vote with the Noes.

Amendment thus negatived.

Mr. R. L. YOUNG: I still intend to proceed with my amendment to delete the passage "before," in line 1 of page 11. This is another case in respect of which the Assistant to the Treasurer, the member for Boulder-Dundas, and the Premier have taken me to task for using the word "retrospective". I suppose some people might think I am a little slow on the uptake, but I cannot imagine how one passes retrospective death duty legislation, unless one says that we will go back to cases where people died a long time ago. I am not referring to retrospectivity in that sense.

A tax is decided on an event which causes the tax to be imposed. Regardless of when the tax is received, the event is the time a profit is made, a contract is entered into, or a gift has been bestowed. The event is the catalyst.

Mr. Hartrey: As long as the event is a future event, we are not talking about retrospectivity.

Mr. R. L. YOUNG: That is the very point. Paragraph (d) and other paragraphs provide that any property that, before, on, or after the date of the coming into operation of the Act passes under any conveyance, etc., shall be deemed to be property of a deceased person. The catalyst for the taxing measure is the event.

Mr. Hartrey: The catalyst is the death.

Mr. R. L. YOUNG: That is not what this notional property tax is based on. It is not based on the death of a person, but on a number of events. We cannot say that a gift made within three years of death is something that will be taxed on the death of the person. The gift is the catalyst. The circumstances I am talking about relate to an annuity which is the catalyst for the tax.

Mr. T. D. Evans: But it only comes into the estate on the date of death.

Mr. R. L. YOUNG: That has nothing to do with the question. If we pass legislation which provides that on the 31st January, 2025, anything that happened before the passage of the legislation will be taxed, it is still retrospective taxation. We are still going back to the event which causes the tax to be imposed.

Mr. Bertram: There is absolutely nothing new in retrospectivity in taxation. We have been into that already.

Mr. R. L. YOUNG: The honourable member suggests we have been into that. Later on I shall ask him to quote instances where the late Mr. Harold Holt as Treasurer imposed retrospective taxation. Perhaps he can give those instances now.

Mr. Bertram: You know them.

Mr. R. L. YOUNG: I deny I know them. I have given the honourable member two weeks in which to come up with examples.

Mr. Bertram: I assumed you knew them, because you practise as an accountant.

Mr. R. L. YOUNG: Obviously the honourable member does not know of any examples. Now, two weeks later, he says that I am aware of them, but I do not know of any. It is a new departure to go back in taxation legislation, and to provide that something which happened previously will be taxed.

The very principles in the Bill in respect of what I term retrospectivity are obnoxious. If in good faith a person entered into an annuity a couple of years previously, paid his money which is beyond recall, and then that money can be taxed when he dies, that of course, is retrospective taxation. It is ridiculous to suggest it is not. The Assistant to the Treasurer, the member for Boulder-Dundas and the member for Mt. Hawthorn referred to the date on which the amount is payable or the event which causes the amount to be collected; but this legislation does not refer to the event which causes the amount to be collected or payable. It deals with the event which causes the tax to be imposed on the notional property.

Any event which takes place today, but which is subjected to the taxing laws of tomorrow, involves retrospective taxation. It does not matter how anyone describes it, that is what it is. The word "before" in line 1 on page 11 is what causes it to be retrospective taxation. I therefore move an amendment—

Page 11, line 1—Delete the passage "before,".

Mr. T. D. EVANS: I oppose the amendment which is similar to others which have been forecast by the member for Wembley. The purpose of the amendment is glaringly clear although I do not know whether its effect is as clear to the honourable member as it is to me.

Mr. R. L. Young: I think it is.

Mr. T. D. EVANS: Paragraph (d) is, in effect, a rewording—and I use that word deliberately—of section 76 (c) of the Administration Act. The purpose of the legislation before us is to repeal generally the provisions of that Act and, in particular, the provisions of section 76 (c) will cease to operate on and after the 1st January, 1974, if the Bill becomes law. If we accept the proposal of the member for Wembley, then on or after the 1st January, 1974, there will be no law at all affecting such arrangements entered into before that date.

Mr. R. L. Young: I pointed that out to you under clause 3, so don't get excited about it.

Mr. T. D. EVANS: It is obvious that this is not the intention of the legislation. We are trying to restore equity between taxpayers, not create a greater gulf or inequity.

Mr. O'CONNOR: I support the amendment. No doubt whatever exists that the clause would result in retrospectivity irrespective of what the Assistant to the Treasurer or his colleagues may say.

Mr. Bertram: There is nothing unusual or novel about retrospectivity in taxation.

Mr. O'CONNOR: The member for Mt. Hawthorn is admitting there is retrospectivity so he disagrees with the Assistant to the Treasurer who states there is no retrospectivity.

Mr. Bertram: I made no such nonsensical statement.

Mr. O'CONNOR: The member for Wembley has tried to give justice to those who have legitimately acted within the law by legally investing their money. There is nothing wrong with a person taking out an annuity for a set period when he thinks he might have 10 to 15 years to live, but under the Bill if such a person invested $40,000 in an annuity and paid it off for two years and then died, the whole lot would be taken into account.

Mr. R. L. Young: And it would all be gone.

Mr. O'CONNOR: Yes. I support the amendment of the member for Wembley because what he is trying to achieve—that is, justice—is what those on this side desire.

Mr. R. L. YOUNG: I will go further than the member for Mt. Lawley and say that the Assistant to the Treasurer is deliberately missing the point. I made the position clear in regard to what rewording meant, and yet he advisedly stated that this clause is a rewording of section 76. I will not say that he is misleading the Committee, but he is certainly missing the point, because it is quite clear that section 76 (c) of the Administration Act does not provide anythink like the provision in this clause. It will if the Assistant to the Treasurer is prepared to accept my subsequent amendment. We are dealing with the word "before" and section 76 (c) does not contain any reference to the backdating of the legislation.

Nothing is clearer than this, but as we all know there are none so blind as those who will not see. Consequently I will not waste my time in trying to throw a little light on the truth concerning this paragraph because the Assistant to the Treasurer will not see the light as his eyes are closed. He continues to refer to rewording and he continues to say the provision contains no retrospectivity.

If the Assistant to the Treasurer adopts a similar attitude throughout the passage of the remainder of the clauses, no credit will be due to him when the Bill is received in its present form in another place.

I have discussed this Bill with some of the best probate law consultants in Western Australia and the unanimous opinion is—but first let me say—

Mr. T. D. Evans: What is the unanimous opinion?

Mr. R. L. YOUNG: Before I reveal the opinion I want to say that the member for Mt. Hawthorn is wrong in his suggestion that those lawyers concerned continue to enter into these arrangements in order blatantly to avoid death duty tax. They do so because their clients instruct them, within the law, to do so. The legal practitioners with whom I have discussed the matter are of the opinion that paragraph (d) does exactly what I have said it does; that is, it backdates the event. It stipulates that if a person enters into these transactions before the Bill comes into operation, he will still be caught under its provisions.

All those to whom I have spoken agree, unanimously, that in addition to that it is quite clear an ordinary, everyday person who buys an annuity will have that amount lumped into his estate. If the Assistant to the Treasurer says that is a good thing—

Mr. T. D. Evans: I am saying it is a good thing.

Mr. R. L. YOUNG: I am glad the Assistant to the Treasurer has said that a transaction entered into some years ago—

Mr. T. D. Evans: It is just as good as doubling the concessions which apply to those people, too.

Mr. R. L. YOUNG: Transactions entered into some years previously will be caught under legislation which the people concerned could not have foreseen.

Mr. T. D. Evans: But they will have time to regulate their affairs before the coming into operation of this measure.

Mr. R. L. YOUNG: How can a person who has purchased an annuity regulate his affairs? Can he go to an insurance company and tell the company that he wants his $75,000 back again?

Mr. T. D. Evans: He can regulate his affairs.

Mr. R. L. YOUNG: He cannot regulate money already spent.

Mr. O'Neil: His money will be gone.

Mr. R. L. YOUNG: I cannot understand the attitude taken by the Assistant to the Treasurer. It is a disgrace.

The CHAIRMAN: Order!

Mr. R. L. YOUNG: He talks about the people he is supposed to represent, but he takes this attitude. He says that people will be able to regulate their affairs but they cannot get their money back. A person will have entered into a transaction in good faith but the Government now says, "Bad luck, we will get the money despite the fact that he has no money." A person can take out an annuity in good faith but the Government now takes this action because it has not been able to catch, by any other means, that one person it is looking for.

Mr. T. D. Evans: We are not looking for one person, at all.

Mr. R. L. YOUNG: The Government cannot get that one person by way of elegant drafting, so it intends to get him by means of a sledgehammer.

Mr. T. D. Evans: This measure is seeking to restore equity between taxpayers.

Amendment put and a division taken with the following result—

Ayes—23

Mr. Blaikie	Mr. Nalder
Sir David Brand	Mr. O'Connor
Sir Charles Court	Mr. O'Neil
Mr. Coyne	Mr. Ridge
Mr. Gayfer	Mr. Runciman
Mr. Grayden	Mr. Rushton
Mr. Hutchinson	Mr. Sibson
Mr. A. A. Lewis	Mr. Thompson
Mr. E. H. M. Lewis	Mr. R. L. Young
Mr. W. A. Manning	Mr. W. G. Young
Mr. McPharlin	Mr. I. W. Manning
Mr. Mensaros	*(Teller)*

Noes—23

Mr. Bertram	Mr. Hartrey
Mr. Bickerton	Mr. Jamieson
Mr. Brown	Mr. Jones
Mr. Bryce	Mr. Lapham
Mr. B. T. Burke	Mr. McIver
Mr. T. J. Burke	Mr. Norton
Mr. Cook	Mr. Sewell
Mr. Davies	Mr. Taylor
Mr. H. D. Evans	Mr. A. R. Tonkin
Mr. T. D. Evans	Mr. J. T. Tonkin
Mr. Fletcher	Mr. Moiler
Mr. Harman	*(Teller)*

Pairs

Ayes	Noes
Mr. Stephens	Mr. May
Dr. Dadour	Mr. Brady

The CHAIRMAN: The voting being equal, I give my casting vote with the Noes.

Amendment thus negatived.

Mr. R. L. YOUNG: Having been unsuccessful in preventing the Government from going back over the affairs of people who have no power to rearrange those affairs, I will try to make the measure a little more reasonable. Perhaps the Assistant to the Treasurer will accept my next amendment to delete all the words in lines 14 to 18 on page 11.

The intention of my amendment is that instead of having the clause provide that anybody who takes out an annuity will have the purchase price of the annuity added to the estate, the only amount to be added will be that which, on an actuarial basis, represents the value that should have been paid for the annuity compared with what was actually paid.

In other words, if a person enters into an annuity on the basis of a sham arrangement, let us say, where he pays somebody $30,000 for an annuity worth only a couple of hundred dollars, that would be caught within the provisions of this Bill because it would not be a bona fide arrangement. It would be a disposition of funds for insufficient value. That would seem to be more equitable to me than to say that anybody who purchased a *bona fide* annuity will be caught.

I know the reason for this amendment was to cover the situation where a person did not have full life expectancy. I know the transaction referred to in the explanatory notes was a case where a person would be paying full value for the annuity, but because it was coupled with another arrangement it was not a bona fide arrangement.

Mr. O'Connor: That was the only one, was it?

Mr. R. L. YOUNG: Yes. Therefore, that particular transaction would not be caught within the net of this amendment but it is better than the alternative contained in the Bill. I hope the day will never come when I become so disconsolate at the attitude of the Assistant to the Treasurer who is handling this Bill that I will lose the spirit to argue. I have gathered the impression that he will

reject this amendment, anyway, not because there is anything wrong with it but because he wants the Bill to go through this Chamber unscathed regardless of how bad it is.

Mr. Bertram: It will not meet with much of a fate in another place.

Mr. R. L. YOUNG: I say to the member for Mt. Hawthorn that I would not like to see the Bill returned to this Chamber from another place in an emasculated form unless the changes were based on logic and good sense.

Mr. Bertram: Nor would we.

Mr. R. L. YOUNG: Members on the Government side are laughing but I wonder whether they really agree with the Minister's statement in respect of that paragraph.

Mr. Bertram: If it receives the same sort of treatment it is receiving here, it will not come back.

The CHAIRMAN: Order! We must confine the debate to the question before the Chair.

Mr. R. L. YOUNG: Despite the fact that the Minister has accepted, for some reason or other, the suggestion that it is a good thing to delve back into people's affairs and innocent people will be caught, members opposite still laugh and say it is being done for a specific reason, but the reason is other than simple common justice. It would be interesting to have a year-long debate on this subject. I would like to hear members opposite express their opinions.

Mr. A. R. Tonkin: If we are not doing it for the sake of justice, why are we doing it? Is it some diabolical plot?

Mr. R. L. YOUNG: I do not know what the Government is doing it for, because no argument has been advanced from the Government side to justify this legislation on the ground of decency or even to present it as reasonable legislation.

Mr. Bickerton: All you need to do is to get rid of your money before you die.

Mr. O'Connor: Even that would not help.

Mr. R. L. YOUNG: If a member on this side of the Chamber suggests the legislation is wrong, the Government assumes we are doing it for an ulterior motive.

Sir Charles Court: If the back-benchers on the Government side understood the legislation it would not have got through Caucus.

Mr. R. L. YOUNG: If members on the front benches on the Government side knew what was in the legislation, it would not have been presented to the Parliament.

The CHAIRMAN: Order! We are in Committee and we must confine the debate to the question before the Chair.

Mr. R. L. YOUNG: Now we are hearing defence for the sake of defence. I accept the fact that the Minister will try to justify the clause despite the fact it is extremely bad legislation. Nonetheless, I move an amendment—

> Page 11—Delete all words in lines 14 to 18 inclusive and insert the following—
>
> and terminating on the death of such first person and which are less than the annuity which the person so dying would reasonably expect to purchase for the amount of the assessed value of the property at the time such conveyance or alienation was made; .

Mr. T. D. EVANS: I take this opportunity clearly to enunciate again that this particular portion of clause 10 is a rewording of paragraph (c) of section 76 of the Administration Act, with a veiw—

Mr. R. L. Young: To changing it entirely.

Mr. T. D. EVANS: —to restoring equity between taxpayers.

Mr. R. L. Young: Rubbish.

Mr. T. D. EVANS: The amendment proposed by the member for Wembley—if it is accepted—will have the effect of restoring the provisions of section 76 (c).

Mr. R. L. Young: The Assistant to the Treasurer means it will have the effect of rewording it, as he claims.

Mr. T. D. EVANS: Had it been the Government's intention to continue with the provisions of section 76(c) we would not have reworded the provision but repeated it. This is not the Government's intention at all.

Sir Charles Court: The context is different.

Mr. Bickerton: It is a matter of political philosophy.

Mr. T. D. EVANS: Had that been our intention, the provision would have been repeated in this measure in the wording in which it appears in section 76 of the Administration Act. I hasten to add that paragraph (d) of subclause (2) of clause 10 is not intended—and according to the Commissioner of State Taxation is not designed—to raise additional revenue.

Mr. O'Connor: It will.

Sir Charles Court: It must do.

Mr. O'Neil: The Commissioner of State Taxation must wear the same dark glasses as the Assistant to the Treasurer!

Mr. T. D. EVANS: It is designed to prevent the use of arrangements which have been clearly designed to reduce revenue collections. Members will note that the operation of the provision is for a three-year period. Any alienations falling out of that period of course will not be affected by the proposition.

Mr. Coyne: Would you like everyone to live in the same size house in the same street? This is what you are doing. You are trying to confine everyone to the same situation.

Mr. T. D. EVANS: I do not think the member for Murchison-Eyre would understand. When he is able to debate the Bill on its merits I will be happy to debate it with him.

Opposition members interjected.

Mr. T. D. EVANS: I reiterate that the Government is not satisfied with the way section 76(c) of the present Administration Act is being used by some people who make arrangements to avoid its incidence, and paragraph (d) of clause 10(2) has been deliberately reworded—

Mr. O'Neil: And changed as a principle.

Mr. T. D. EVANS: —to restore equity between taxpayers and to prevent, if possible, people from making arrangements to avoid the payment of taxation and thus casting a greater burden on those who do pay it.

Mr. O'CONNOR: The Minister has just told the Committee that the measure will not bring in any further taxation.

Sir Charles Court: Not much!

Mr. T. D. Evans: I said it is not designed to bring in any further taxation.

Mr. O'CONNOR: It will bring in additional taxation. Good heavens! When so many additional people will come under the legislation, there is no doubt whatsoever that the Treasury will benefit greatly from the additional amount of money it will receive.

Mr. Hutchinson: It is a taxation measure.

Mr. O'CONNOR: If the Commissioner of State Taxation has advised the Minister that no additional money will come forward, his advice must be wrong.

Mr. T. D. Evans: I used the words, "it was not designed".

Mr. A. R. Tonkin: We know the people whom members opposite are trying to protect.

Mr. O'CONNOR: One would think that a person who is, on occasions, Deputy Chairman of Committees, would have more sense than to carry on as he is.

Mr. A. R. Tonkin: I would like honesty.

Mr. O'CONNOR: We hear continuous interjections from him but it is time someone in the position he holds set an example.

The CHAIRMAN: Order; We must confine the debate to the amendment before the Chair.

Mr. O'Neil: We should confine the member for Mirrabooka!

Mr. O'CONNOR: I believe the amendment moved by the member for Wembley is a much better proposition and will bring matters more into line. All I can say is that the Government, in introducing this legislation, hopes that it will be knocked back in another place so that it can say, "See! We put legislation up which would be of benefit to the State, but the Council rejected it."

Mr. A. R. Tonkin: It will be of benefit and that is what hurts.

Mr. O'CONNOR: Members opposite know this is as far from the truth as it can possibly be.

Mr. A. R. Tonkin: We are not here to legislate for a favoured few.

Mr. O'CONNOR: Members of the Government seem to be here to pinch every last cent from the people. Instead of trying to raise the standard of people, they are trying to bring down the standard. We know this, and this is what hurts the member for Mirrabooka. The member for Mirrabooka knows that this is what his party is endeavouring to achieve.

Like the member for Wembley, I would like to see sensible legislation leave this Chamber. The present legislation, with its extent of retrospectivity, is unjust and unfair. I support the amendment moved by the member for Wembley.

Amendment put and a division taken with the following result—

Ayes—23

Mr. Blaikie	Mr. Mensaros
Sir David Brand	Mr. Nalder
Sir Charles Court	Mr. O'Connor
Mr. Coyne	Mr. O'Neil
Dr. Dadour	Mr. Ridge
Mr. Gayfer	Mr. Runciman
Mr. Grayden	Mr. Rushton
Mr. Hutchinson	Mr. Sibson
Mr. A. A. Lewis	Mr. R. L. Young
Mr. E. H. M. Lewis	Mr. W. G. Young
Mr. W. A. Manning	Mr. I. W. Manning
Mr. McPharlin	*(Teller)*

Noes—23

Mr. Bertram	Mr. Hartrey
Mr. Bickerton	Mr. Jamieson
Mr. Brown	Mr. Jones
Mr. Bryce	Mr. Lapham
Mr. B. T. Burke	Mr. McIver
Mr. T. J. Burke	Mr. Norton
Mr. Cook	Mr. Sewell
Mr. Davies	Mr. Taylor
Mr. H. D. Evans	Mr. A. R. Tonkin
Mr. T. D. Evans	Mr. J. T. Tonkin
Mr. Fletcher	Mr. Moiler
Mr. Harman	*(Teller)*

Pairs

Ayes	Noes
Mr. Stephens	Mr. May
Mr. Thompson	Mr. Brady

The CHAIRMAN: The voting being equal, I give my casting vote with the Noes.

Amendment thus negatived.

Paragraph put and passed.

Progress

Progress reported and leave given to sit again, on motion by Mr. Moiler.

House adjourned at 11.14 p.m.