our foresight in creating an area ahead of its time so that in the year 1959 it was possible for the Parliament of this State to give permission for the City of Perth to build something not only useful, but educational, important to the community and also very beautiful."

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

Ayes—18.

Mr. Bickerton	Dr. Henn
Mr. Brand	Mr. Kelly
Mr. Burt	Mr. Lewis
Mr. Court	Mr. O'Connor
Mr. Craig	Mr. Rowberry
Mr. Graham	Mr. Sewell
Mr. Guthrie	Mr. Tonkin
Mr. Hawke	Mr. Wild
Mr. Heal	Mr. Crommelin
	(Teller.)

Noes—27.

Mr. Andrew	Mr. W. A. Manning
Mr. Bovell	Sir Ross McLarty
Mr. Brady	Mr. Moir
Mr. Cornell	Mr. Nalder
Mr. Evans	Mr. Nimmo
Mr. Fletcher	Mr. Norton
Mr. Grayden	Mr. Oldfield
Mr. J. Hegney	Mr. O'Neil
Mr. W. Hegney	Mr. Owen
Mr. Hutchinson	Mr. Perkins
Mr. Jamieson	Mr. Rhatigan
Mr. Lawrence	Mr. Roberts
Mr. Mann	Mr. May
Mr. I. W. Manning	*(Teller.)*

Pairs.

Ayes.	Noes.
Mr. Hall	Mr. Toms
Mr. Nulsen	Mr. Watts

Majority against—9.

Question thus negatived.

Bill defeated.

House adjourned at 1 a.m. (Friday).

Legislative Council

Tuesday, the 20th October, 1959

CONTENTS

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

BILLS (7)—ASSENT

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

1. State Eelectricity Commission Act Amendment Bill (No. 2).
2. Land Agents Act Amendment Bill.
3. Interstate Maintenance Recovery Bill.
4. Noxious Weeds Act Amendment Bill.
5. Nurses Registration Act Amendment Bill.
6. Motor Vehicle (Third Party Insurance) Act Amendment Bill.
7. Filled Milk Bill.

AUDITOR-GENERAL'S REPORT

Tabling

The PRESIDENT: I have received from the Auditor-General a copy of his report on the Treasurer's statement of the Public Accounts for the financial year ended the 30th June, 1959. It will be laid on the table of the House.

QUESTIONS ON NOTICE

WATER SUPPLIES

Consumption and Cost in Various Cities

1. The Hon. A. L. LOTON (for the Hon. L. C. Diver) asked the Minister for Mines:

   Will the Minister give the House the following information concerning water supplies:

   (1) The average daily consumption of water per head of population in the driest

month of the year in each of the undermentioned cities—

(a) London
(b) Washington
(c) Ottawa
(d) Berlin
(e) Cairo
(f) Moscow
(g) Canberra
(h) Brisbane
(i) Sydney
(j) Melbourne
(k) Adelaide
(l) Hobart
(m) Perth?

(2) The cost to the consumer of water per thousand gallons in each of these cities?

The Hon. A. F. GRIFFITH replied:

		Galls.
(1)*	(g) Canberra	270
	(h) Brisbane	88
	(i) Sydney	125
	(j) Melbourne	133
	(k) Adelaide	196
	(l) Hobart	137
	(m) Perth	210

(2)* (g) Canberra .... 1s.
(h) Brisbane: Industrial premises only metered.
(i) Sydney .... 2s. 3d.
(j) Melbourne .... 1s. 6d.
(k) Adelaide:
2/3d. rebate water.
2/-d. excess of rebate.
(l) Hobart .... Not available.
(m) Perth .... 1s. 9d.

Apart from Hobart, where the consumption is quoted as for during hot periods, the figures given are for the month of maximum consumption.

Varying conditions such as summer rains, the general nature of the soil and degree of industrial usage, preclude the making of reliable comparisons.

*(a) to (f) Figures for overseas cities are not available, but comparison in these cases would be even more misleading.

Private Pumping Systems and Availability of Piping

2. The Hon. F. R. H. LAVERY asked the Minister for Mines:

(1) Is the Minister aware that owing to the enforcing of water restrictions a large number of metropolitan residents are in the act of, or contemplating, installing their own private pumping systems?

(2) Is he also aware that owing to the proposals as outlined above, there has been a heavy ordering of tubing and that a number of people who have their wells down are not now able to obtain supplies of tubing of various sizes?

(3) Would the Minister make inquiries as to whether there has been any cornering of these vital supplies by traders?

(4) If the answer to No. (3) is "Yes" will he take immediate steps to rectify this matter?

The Hon. A. F. GRIFFITH replied:

(1) Yes.

(2), (3), and (4) Lack of shipping between the 9th July and the 27th August accounts for the shortage of tubing. New stocks have just been unloaded at Fremantle. Big supplies are at present being loaded at Newcastle, and further loadings are expected at the end of October or early in November. All these supplies will not, however, be sufficient to meet the heavy demand, and importer's representative is proceeding to Newcastle and will endeavour to obtain additional supplies.

WHARFAGE CHARGES

Comparative Figures

3. The Hon. A. L. LOTON asked the Minister for Mines:

What are the wharfage charges per ton at the following Australian ports:

(a) Fremantle;
(b) Port Adelaide;
(c) Melbourne;
(d) Sydney;
(e) Brisbane?

The Hon. A. F. GRIFFITH replied:

It is quite impossible to compare the wharfage rates at Fremantle with those of any other port in Australia. Concessions and exemptions in the wharfage charges exist at all ports, depending on local conditions, so that some cargoes pay part rates and some are totally exempt. The proportions of the various types of cargo which are subject to concession rates or are exempt vary from port to port. At Fremantle the two largest cargoes passing through the port each year—namely, oil and grain—represent some 76 per cent. of the total of Fremantle cargoes, and contribute nothing in wharfage to the port revenue. The total percentage of cargoes at Fremantle exempt from

wharfage or paying low concessional wharfage rates is 92.4 per cent., leaving only a total of 7.6 per cent., mainly imports, paying the necessary high full wharfage rate to meet port costs. For this reason, general cargo imports and exports at the port of Fremantle pay a comparatively high wharfage rate.

It is reiterated that the wharfage rates at all ports vary from zero to a maximum charge. The current wharfage rates applicable on general cargo, i.e., the maximum charge at the various ports, are outlined below, but must be considered with due regard to the foregoing remarks.

	Inwards Per Ton	Outwards Per Ton
	s. d.	s. d.
Fremantle:		
Overseas	13 6	10 0
Interstate	13 6	10 0
Intrastate	13 6	2 0
Port Adelaide:		
All cargo	9 4	5 6
Melbourne:		
Overseas	8 4	Nil
Interstate	5 6	Nil
Intrastate	2 0	Nil
Sydney:		
Overseas	8 4	3 8
Interstate	6 6	2 9
Intrastate	6 6	2 9
Brisbane:		
Overseas	4 6	4 6
Interstate	3 9	3 9
Intrastate	3 9	3 9

ONSLOW ENTRANCE ROAD

Bituminising

4. The Hon. W. F. WILLESEE asked the Minister for Mines:

With reference to my remarks during the Address-in-reply debate—

(1) Is the Government aware that, due to the condition of the entrance road into Onslow township from the North-West Highway—

(a) Tourist traffic is bypassing the town;

(b) Local transport operators are suffer a disadvantage;

(c) District station vehicles are unnecessarily inconvenienced?

(2) Will the Government give urgent consideration to the bituminising of the section of approximately 12 miles?

The Hon. A. F. GRIFFITH replied:

(1) (a) No.

(b) No; there are many thousands of miles of road unsealed in the North-West.

(c) No.

(2) There are hundreds of miles of road in the north-western part of the State that would have a higher priority for bituminous surfacing than the 12-mile spur into Onslow.

MOTOR-VEHICLE LICENSES

Holden Sedans

5. Hon. A. L. LOTON asked the Minister for Mines:

Further to my question on Wednesday, the 30th September, 1959, and in consequence of the reply received to my question on Wednesday, the 14th October, 1959, I am not interested in what the licensing practice was prior to December, 1958, and request that the Minister advise the present license fees for "FJ," "FE," and "FC" Holden sedans in W.A.?

The Hon. A. F. GRIFFITH replied:

The present annual license fee for an "FC" Holden sedan is £8 12s. 0d. For an "FJ" or an "FE" Holden sedan the annual license fee can vary from £8 4s. 0d. to £8 16s. 0d. according to the weight of each individual car when licensed.

LEAVE OF ABSENCE

On motion by the Hon. G. C. MacKinnon (for the Hon. F. D. Willmott), leave of absence for six consecutive sittings granted to the Hon. J. Murray (South-West) on the ground of ill health.

SUPPLY BILL (No. 2), £19,000,000

First Reading

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

BILLS (2)—THIRD READING

1. Marriage Act Amendment Bill.
2. Main Roads Act Amendment Bill.

Passed.

ADOPTION OF CHILDREN ACT AMENDMENT BILL

Second Reading

Debate resumed from the 15th October.

THE HON. E. M. HEENAN (North-East) [4.45]: When introducing this Bill, the Minister mentioned that it was passed in 1896; and he pointed out the requirements of the existing law relating

to those people who apply for the adoption of children. The principal Act is a very important one, and it is only right that the Legislature should give it careful consideration from time to time. That that attitude has prevailed in the past is borne out by the fact that the original Act has been amended on no less than eight occasions. It was amended in 1915, 1916, 1921, 1926, 1945, 1949, and twice in 1953.

As a lawyer, I have had some experience of the application of this legislation, and I can assure the House that it has now reached a stage bordering on perfection; and that is saying a great deal. The Bill before us seeks to amend four or five sections of the Act, which the Minister has told us will be beneficial by giving further protection to children who are adopted.

As Mr. Thomson has pointed out, one of the proposals may be far-reaching and its implications could be great. Therefore, it is incumbent on all of us to give it our most careful consideration. In particular, I will be interested—and perhaps guided to a large extent—in the views which Dr. Hislop will no doubt expound during the course of the debate.

If ever I have been proud of the operation of any law, it is the Act relating to the adoption of children. From my experience, I have found that the manner in which the existing Act is applied by the courts, tends to make it work very smoothly; and this goes a long way towards protecting the interests and ensuring the welfare of little children who are unable to look after themselves.

Section 5 of the Act provides that before making an order of adoption, the judge has to be satisfied on a number of counts. Indeed, before an application comes before the judge, many requirements have to be fulfilled, particularly with respect to the character, the antecedents, and the suitability of the persons proposing to adopt a child.

For instance, it has to be established that those persons are of good character. If they have been convicted of any offences, the details have to be submitted to the court. Character references have to be obtained from people of standing in the community. The standard of the housing accommodation into which the child is to be taken has to be shown. The occupation, as well as the financial position of the husband and wife adopting the child, has to be set out. There are other all-embracing provisions in the Act which enable the judge to call for further information or for proof on certain matters, if he so desires.

The Hon. G. Bennetts: Is a certificate of health required to be produced by the adopting parents?

The Hon. E. M. HEENAN: Not specifically. Section 5 of the Act states that the judge may compel the attendance before him of any witness; and, for that purpose, may direct the issue and service upon the witness of a summons. The judge may take evidence *viva voce*, upon oath or by affidavit, in proof of or concerning any fact, matter, or thing required by the Act or by the judge to be proved. Further, the judge shall be satisfied that the person proposing to adopt the child is of good repute and is a fit and proper person to have the care and custody thereof, and of sufficient ability to bring up, maintain and educate the child. The judge must be satisfied that the welfare and interest of the child will be promoted by the adoption, and that the consents required by the Act have been duly signed and filed.

Although the health of the applicant is not mentioned specifically, I think that question is adequately covered by the provisions in section 5 of the Act. If sufficient emphasis has not been placed on the question of health in the provisions of the Act, that can be overcome without going to the extremes set out in the Bill.

I support the second reading of this Bill, because it has a number of worth-while provisions. Whether or not the provisions in clause 2 go too far is a matter which should cause us all concern. Clause 2 seeks to add the following paragraph to section 5:—

> (8a) shall require the applicant for an order of adoption and the husband of an applicant where the application is made by a married woman alone, to produce to him a certificate,
>
> signed by a medical practitioner by whom he has been professionally attended or by a medical officer who is an approved medical officer within the meaning of section two hundred and ninety of the Health Act, 1911,
>
> certifying that the applicant or husband or both, as the case may be, has within a period of six months immediately preceding the date of the application, undergone an X-ray examination of his chest, and is not on the evidence available from the examination, suffering from any form of infectious tuberculosis.

According to the Minister who introduced the Bill, this provision is included to ensure that a child for adoption is placed only with applicants who are healthy in this respect; and this proposed amendment is deemed to be necessary as there have been a few cases brought to notice in which children have been adopted by persons who have been suffering from tuberculosis.

So the justification for this far-reaching restriction is that there have been a few cases out of the hundreds or thousands of adoptions which have taken place over the years. I am in full agreement with the proposition that if a child is adopted, the adopting parent shall be suitable in every respect. I do not disagree with the proposition that one of the all-important aspects is the question of health. But whether or not it is wise to include in the Act the provision contained in clause 2, which if applied will debar a husband or wife who is suffering from silicosis from adopting a child, is, in my opinion, debatable.

We have to safeguard the well-being of little children in every respect; but I can envisage a case where a man, who is suffering from tuberculosis and undergoing treatment in a sanatorium, and his wife want to adopt a little child, but his affliction—they are suitable in every other respect—precludes them from doing so.

If we pass this Bill as it is, it will become mandatory on a judge to refuse an application unless these clean bills of health can be produced. As I say, my experience has been that judges insist on a high standard, and submit the applications to the gravest scrutiny. I believe that all we should do is to include a provision that anyone applying for an order of adoption should submit a certificate from a duly qualified medical officer to say that such applicant is in a fit state of health to adopt a child.

The Hon. G. C. MacKinnon: Does not a judge normally ask that now?

The Hon. E. M. HEENAN: Yes. In any applications I have submitted, I have always made some reference to the health, age, and all other relevant matters in the affidavits that are filed. This Bill reminds me of another question which I suppose some day we will have to consider. Nowadays people can marry without any restrictions, and bring children into the world. In many cases the law should not allow them to marry. However, as I said, some day that state of affairs might receive consideration.

I hope members will study this provision in the Bill. I think it is important; and far be it from my intention to dispense with anything that is reasonable in offering protection for little children who cannot make any choice in the matter for themselves. However, I can visualise cases where decent people, who genuinely and sincerely desire to adopt a child, will be unfortunate enough, perhaps, to be suffering from tuberculosis, and who might be unjustly treated if this Bill were to pass. I think that we can possibly amend it along the lines indicated, which would be sufficient to meet the worthy motives which I am sure the Minister—and those advising him—have in mind. As indicated, I am going to support the second reading.

THE HON. G. BENNETTS (South-East) [5.4]: I am going to support the Bill. The reason I asked Mr. Heenan whether a medical certificate was required under the Act is because recently a nearby neighbour adopted a child; and I am sure that at the time her health must have been below the standard which I think should be required in these circumstances. Within a month or two of the adoption of this child, the woman was confined to her bed, and a small girl of school age had to be the mother of the adopted child whilst the father was at work. While the child was at school, these people had to have a teenager to look after the affairs of the home. In my opinion, that woman should never have been allowed to adopt a child.

I believe that the provision in this Bill for the presentation of a medical certificate should not only be necessary for T.B. but should also include other complaints which would be detrimental in the looking after of a child.

I think that at times some of the welfare officers may not be trained sufficiently to be able to use proper judgment in these cases. We are getting some very young men now between the age of 20 and 25 in the department. They have little knowledge of fatherhood or of life generally; and I think that persons in these positions should be around the age of 35 to 40 with a knowledge of family life.

A few years ago there was living within two doors of me a person who adopted a a child. I do not know how anyone could have given a recommendation for this adoption.

The Hon. L. A. Logan: All the more reason for this Bill.

The Hon. G. BENNETTS: Yes. The Bill will tidy up the situation; and I am glad to see it has been introduced. As I was saying, this child was put in a closed cot while the mother was out all day. The child screamed its eyes out; and reports were made by the local people, and after some time the child was taken away.

The Hon. R. Thompson: You have a Child Welfare officer up there. Why not go to him?

The Hon. G. BENNETTS: As I was saying, I think that at times certain members of the Child Welfare Department are either lackadaisical or have insufficient knowledge.

The Hon. L. A. Logan: They had nothing to do with that.

The PRESIDENT: Order!

The Hon. G. BENNETTS: In contrast to the cases I have just mentioned, at the moment there are two families each of which has adopted a child; and these children could not find better parents if they travelled the whole of the State. However, I do believe that in the Child Welfare Department we should have men who have undergone vast training to gain

certificates in family life to enable them to take on the responsible duties in regard to these adoptions. There have been some awful cases of adoptions, and it is about time a Bill of this sort was passed to improve the Act.

THE HON. J. G. HISLOP (Metropolitan) [5.10]: I had hoped to hear considerably more views on this Bill than have been expressed up to the present, because, as the Minister emphasised, it is a very important measure. The question as to whether an individual should submit to an examination for T.B. is one to which the House must give a lot of thought; because if it is true that this provision is required simply because a small minority of people have been found to be suffering from T.B. after having adopted a child, then, I believe, the clause should be amended to cover other infectious diseases.

The Hon. G. Bennetts: Yes.

The Hon. J. G. HISLOP: It is quite clear from the wording of this measure that evidence is to be obtained from a radiological examination. I am not at all certain that an X-ray examination can define the activity of T.B. It can define its presence at some stage or other and can suggest activity, but it is the clinical examination of the chest, combined with the radiological examination, which gives the confirming evidence. However, this clause is so worded that all that would be required would be the presentation of an X-ray film and a report. I feel that, if we require this type of legislation, both the clinical and radiological reports should be included.

The provision in the Bill requires a certificate signed by a medical practitioner by whom the applicant has been professionally attended. Attendance does not necessarily mean that the individual would have been examined. In lines 18 to 22 are the words "undergone an X-ray examination of his chest, and is not, on the evidence available from the examination, suffering from any form of infectious tuberculosis." That limits the examination to one of X-ray.

I do not think that Mr. Thompson need have any of the fears which he expressed, because the Bill seeks to do that which he desires. His fear is that a medical officer will not give a person a certificate of healed T.B. That is not so today, because individuals are examined from time to time under an Act passed by this Parliament some years ago; and a person is now allowed to leave a sanatorium, so long as the department is satisfied that he is free from the disease. Therefore, it is possible to obtain a certificate to the effect that one is free from infectious tuberculosis.

We in the medical profession have found from time to time radiological evidence of T.B. but, upon examination, have discovered it to be healed or not active. In those cases, the person would receive a certificate stating that he was not suffering from any form of infectious tuberculosis. Therefore, the basic conditions of this clause are really in order, if the House desires that a person suffering from T.B. should not adopt a child.

I do not think that Mr. Heenan need have any fears that the possession of silicosis will debar a person from adopting a child. The provision is very specific in that the individual or individuals shall not be suffering from infectious tuberculosis. Silicosis is not mentioned. I realise that probably what was in the honourable member's mind was that we do regard silicosis as a basis on to which T.B. is often grafted; but infectious tuberculosis is specifically stated in the Bill.

My own view is that we are not justified in asking a young child who is free from tuberculosis, and who probably has no background history of the disease in his family, to spend the susceptible years of his life in a house where there is infectious tuberculosis. I think we have reached the stage where we can say that we are not justified in asking a small child to take that risk. Personally, I would have made the provision more emphatic than it is in the Bill. I would have asked for a certificate from the tuberculosis branch of the Health Department stating that, in its opinion, the person seeking an order of adoption was free from tuberculosis in an infectious state, and was, therefore, fit to adopt a child.

If an individual had a small healed lesion, I would have no hesitation in saying that that person should be able to adopt a child. But if the individual had heavily scarred lungs, I would be very doubtful about it because there can come a time—and there often does come a time—when those who show considerable scarring of the lungs find that they are once again suffering from tuberculosis. Therefore a certificate on the lines I have suggested would be a worth-while provision.

On the other hand, when it comes to the whole question of infectious diseases, we might adopt the suggestion that has been made that the judge may require a physical and radiological examination of a person seeking adoption of a child. That would leave it open to the judge to ask for what he wanted. However, the clause in the Bill is reasonable if the House is of the opinion that some such certificate should be required; but I would like the report to be given on both clinical and radiological grounds, and not purely by the submission of an X-ray film.

One of the other aspects of the Bill which interests me is that the judge shall require a responsible officer of the Child Welfare Department to make a written

report to him; because there is no doubt that that is taking away some of the responsibility of the judge who, under the Act as it stands, can compel any witness to give evidence and can obviously call for information regarding the character and ability of the persons concerned with the adoption of a child. From Mr. Heenan's statement it is obvious that the judge does make those inquiries. Obviously the report from the Child Welfare Department would be regarded as *prima facie* evidence of the individual's ability, suitability, or unsuitability, for the adoption of a child.

If members read the clause following that provision, they will find that the Act is to be amended so that the individual who is asking for the adoption of a child shall make available to the officer of the Child Welfare Department all the information that the department wishes and needs in order to make a report to the judge. It seems that we are taking the responsibility away from the judge and simply allowing the information to be acquired by the department and presented to the judge. But it seems to me that to a certain extent the individual could be incriminating himself if it so happened that the evidence he gave to the Child Welfare Department rendered him unsuitable for the adoption of a child. I wonder whether that evidence would be accepted by the judge as suitable evidence. It is obvious, too, that the Child Welfare Department can make inquiries; and there is no doubt that it does act as an inquiring agent for the court. But whether we need such a provision in this Bill, is a matter which the Minister could explain more fully when he replies.

If it is essential that the Child Welfare Department act in this manner, it simply means that the final matter for the judge to decide upon is based upon the written evidence of the department, because the report will cover what the judge now has to inquire into under the Act as it stands.

I consider this an important measure from twe points of view: Firstly, because it is the commencement of a new era in regard to this matter by the compelling of individuals to submit to certain examinations prior to the adoption of a child; and secondly, because the institution of the Child Welfare Department is to be the provider of evidence in relation to the ability and suitability of applicants.

It now is a question of whether we consider that it is essential that persons with infectious diseases should be prevented from adopting children. On basic principles we should. What the wording of the provision should be is another matter. We should make it quite clear that persons suffering from infectious tuberculosis, whether they desire to adopt a child or not, should not be permitted to submit the child to the risk of developing tuberculosis. Therefore, whether the method of signing and presenting the document is as we would wish it, is a matter for debate.

Further, we must consider the question of whether it is sufficient simply to accept an X-ray film as being an examination of activity in tuberculosis. If we are going to the length of asking for some evidence in the matter as to whether an individual is suffering from active tuberculosis, we should take the step of saying that the complete information should be given, and we should ask for both a clinical and radiological examination.

If an individual has been under the care of the tuberculosis branch of the Department of Public Health for any period at all, or if he has been in the sanatorium, or in the Hollywood Chest Hospital, or is having treatment from the tuberculosis branch, I consider that the section concerned should be the one to provide the certificate. As the Bill stands, the position is left open; and a person in any condition at all can merely obtain a certificate from a medical practitioner, or a medical officer approved under the Health Act.

Some provision could be made so that if an individual had not been under active treatment by the department, a certificate from the medical practitioner, plus an X-ray film, could be regarded as evidence; but where the individual had been under treatment by the State, the officers of the State should supply to the court information as to the extent of the disease, the future of the patient, and the probability of his being fit for the adoption of a child.

This is a most important Bill and it will have my support at the second reading. But I would like a complete report from the Minister as to the exact meaning of the words in both clauses 2 and 3.

THE HON. J. D. TEAHAN (North-East) [5.25]: I agree with what Dr. Hislop has said about the necessity of having a certificate as regards the health of a person wishing to adopt a child. But I also think that the conditions of adoption should not be such as would frighten a prospective applicant from applying to adopt a child.

Let us consider those children who are available for adoption. Generally they are unwanted by their parents, or the parents are such that they will not give them the love and affection which every child wants. If these children are not adopted, they are condemned to life in an institution during the whole of their youthful days.

Now let us consider those who desire to adopt children. I suppose that only one out of 10 would be unsuitable to look after a child; the other nine out of 10

would be people who love children. Generally speaking they have none of their own, and long to lavish their care and affection on some child. A child who comes under the care of such people is fortunate indeed.

I have followed the lives of many children who have been adopted, and when they have left their adopted families they have been well fitted to take their place in society. They have been given an excellent education; they have been well clothed, and well fed; and they have had all the loving care that they could wish for. Had they not been adopted by such people, they would have been compelled to live in an institution or stay with parents who would not give them any love at all.

How often do we read of cases where, because the parents are too busy, the children have been left by themselves. We often hear of cases where parents have been playing darts, or drinking, or indulging in some other form of recreation, and have been too busy to give their children any care at all.

The Hon. F. R. H. Lavery: Or away trying to earn a living.

The Hon. J. D. TEAHAN: I am not finding fault with those who are trying to earn a living. In some cases it is necessary for both parents to work; and they are doing their best to provide the wherewithal to look after their children. I am speaking of people who do not give their children any care at all.

In this regard I agree with Mr. Bennetts that the officers of the Child Welfare Department should be carefully selected. I have seen district officers of the department, and I have been amazed at their immaturity. In my opinion people so young have not acquired the necessary experience and maturity to enable them to undertake child welfare work, or to be able to understand the question of adoption. They are the officers who, under this legislation, would be the ones to decide on the suitability of a person to adopt a child. I believe that such a decision should be made by a person of mature age, who has developed a love of children.

Do not let us make the Act read in such a way that people who desire to adopt children, and who would make suitable parents, will be frightened to apply for the adoption of a child because of all the requirement they will have to meet. If we make the requirements too forbidding, many suitable people will not go through the adoption procedure. However, I still contend that a person suffering from infectious tuberculosis should not be permitted to adopt a child, and I fully agree with that provision in the measure. I intend to support the second reading because, generally, I believe the provisions in it to be most necessary.

THE HON. L. A. LOGAN (Midland—Minister for Child Welfare—in reply) [5.30]: I appreciate the interest that members have taken in this Bill. Every member who has spoken has said that it is an important piece of legislation. It certainly is an important measure, and I can assure members that the amendments contained in it have not been brought down lightly. They have been put forward and included in the light of experience, and on the recommendations of those who have dealings with adoption cases.

In the first place, Mr. Thompson asked that I consult with Dr. King on this matter. I would inform the honourable member that it was on Dr. King's recommendation that the proposed amendments to the Act were brought forward. As far back as the 4th March, 1959, Dr. Alan King, Director, Tuberculosis Control Branch, wrote to the Commissioner of Public Health as follows:—

> As you know, it has been the custom for some years for the Child Welfare Department to refer couples who are arranging adoption of infants and children through that department, to the Chest Clinic for x-ray examination.

Every child who has passed through the Child Welfare Department has had to have that examination, otherwise the department concerned would not receive the children for adoption. Dr. King continues—

> This procedure has proved worth while on several occasions. Unfortunately, there is no such provision at the moment for couples who are adopting children privately. This was brought to my mind yesterday with the discovery of a man suffering from extensive active pulmonary tuberculosis who had recently adopted a baby from St. Anne's Nursing Home.
>
> Would it be possible to approach the Chief Justice in this regard to see if some control could be exerted to enable the same precautions to be observed for couples arranging adoptions privately as through the Child Welfare Department, i.e., in regard to health, social conditions, etc.

That should answer the query raised by Mr. Thompson. We must appreciate that we are dealing not only with people who are desirous of adopting a child, but with the child itself. As responsible members of society we have a duty to the child, just as much as to the couple who wish to adopt that child; and if we are to show bias one way or the other, I think our preference should lie with the child, to ensure that it has a better start from the time it is adopted than it had from the time it was born.

As Mr. Teahan said, quite a few of these children are unwanted, and have not started life in the privileged manner that normal children generally do. That being so, I think that our leaning should be

more towards the child than towards the couple who wish to adopt the child. In his note, Dr. King wrote to the Commissioner of Public Health on the 23rd March, as follows:—

> I think the position warrants an amendment of section 5 of the Adoption of Children Act, making it obligatory for the applicants, both husband and wife, to produce medical certificates, including chest x-ray reports, showing that they are in normal health. I think it would be reasonable for the Public Health Department to provide facilities for chest x-rays, free of charge, through chest clinics or country hospitals.

I agree with this entirely. To continue—

> There is no doubt also that the health of the child would need to be guaranteed by satisfactory home conditions, and perhaps provision could be made at the same for a report on satisfactory home conditions to be submitted by the Child Welfare Department.

That should completely answer Mr. Thompson's query. Mr. Bennetts has said that he knows of quite a few people who have adopted children, but who should never have been permitted to do so.

The Hon. J. D. Teahan: The Child Welfare Department should have seen to that.

The Hon. L. A. LOGAN: No. Had the Child Welfare Department been asked to make a report on the question of the adoption, the judge could have said, "You are not satisfactory parents, and we will not give you an order for adoption." We want to make sure that the judge has some information on these matters apart from that which he has normally available. He has power now to get this information, but he does not always get it, but relies on his own judgment, which, in some cases, has been astray. The suggestion is that the judge will have a report from the Child Welfare officer as to the suitability of the people desirous of adopting children Whether Parliament thinks that is going too far is another matter; but we have a responsibility to the child being adopted.

I do think, however, that we should make every effort to ensure that the child to be adopted shall be safeguarded and given a better start, from the time of its adoption, than that which it had prior to being adopted. Mr. Teahan does not have to worry about the children being homeless, because I can assure him there are not enough children now to fill the applications that we have for them. There is a tremendous waiting list; and we could do with another 200 babies a year to comply with the applications.

The Hon. F. R. H. Lavery: My niece waited four years.

The Hon. L. A. LOGAN: Some people have to wait five and six years. It is possible that while they were anxious to adopt a child in the early years of their married life, they are perhaps not as keen after having had to wait so long before being able to do so.

The Hon. J. M. Thomson: That is understandable.

The Hon. G. Bennetts: Some get them reasonably quickly.

The Hon. L. A. LOGAN: I have had it suggested to me that all adoptions should be undertaken by the Child Welfare Department; but I thought that was going a little too far, and I did not agree with the suggestion. I felt that people should have the right to go outside the department if they desired, provided they complied with the other requirements.

Mr. MacKinnon asked me to supply him with certain figures tonight. I can certainly let him have the figures in my possession. They refer to the years 1956 to 1959. In 1956-57, there were 277 applications granted: 50 by the Child Welfare Department and 227 arranged by solicitors. From the 1st July, 1957, to the 30th June, 1958, there were 290 applications granted for adoption: 85 were arranged by the Child Welfare Department, and 205 privately by solicitors. In the 1958-59 report, which I will table on Thursday—which will mean there will be two reports in the one year—there were 316 applications granted: 89 by the department, and 227 arranged privately by solicitors.

Each of these reports says there are still very few babies becoming available for adoption, and that the number of applications by people desiring a baby or older child to be placed with them for adoption is still increasing. I could go further and give the set-up of the 89 children who were placed for adoption by the department. Of those, 45 children were placed with approved applicants. This number included twins—a boy and a girl—four children adopted by relatives; 17 ex-nuptial children adopted by the mother and her husband; three children of former marriages adopted by the mother and her husband; 15 wards of the department; two migrant children; one foster child, two legitimate babies—twins, a boy and a girl. In all, 47 boys and 42 girls were adopted. It was the same in the previous year.

The Hon. G. Bennetts: In certain cases the ages for adoption are very young.

The Hon. L. A. LOGAN: In some cases they are adopted at 16 years of age. Very often wards of the department are given to foster parents for care and protection; those foster parents become so attached to the children that they, the foster parents, seek adoption of them. That is one of the reasons why today so many children are not sent to religious institutions and homes. If a child can be placed

with a couple in a home, the policy of the department is to do that, because of the better care and attention the child receives. I must say that the department has done a wonderful job in this matter.

The Hon. G. C. MacKinnon: What medical examination is conducted in regard to foster parents?

The Hon. L. A. LOGAN: The Child Welfare Department ensures that they have the necessary medical examination; and it conducts a strict investigation into all aspects of their home life, etc. As far as is humanly possible, the department makes sure that the child will have the best chance available to it. Further, the department follows up the adoption and visits the parents every month or so for five or six months; not only to make sure that everything is all right, but very often to help and guide the parents adopting the child; because it will be appreciated that a couple may have reached the age of 40 or 45 and, never having had a child of their own, be at a loss as to the best course to follow in the child's interests. In such cases it is possible that the Child Welfare officers of 25 years of age, that Mr. Bennetts mentioned, are better able to advise in these matters than are the couple adopting the child. So I think it will be agreed that the amendments in the Bill are fair and reasonable.

Mr. Thompson should appreciate the fact that couples seeking to adopt children can only be refused the adoption of a child if they are suffering from infectious tuberculosis; and that provision is in the Act. The implication is that if a couple are not suffering from infectious tuberculosis it is for the judge to say that he will or will not grant them the child for adoption. As I have said, this provision is already in the Act; and an amendment would not improve the situation, which is very clearly set out already. I obtained the opinion of Mr. Young on the amendment foreshadowed by Mr. Thompson, and this is what he had to say—

> I have discussed this proposal with Dr. King of the Tuberculosis Control Branch of the Public Health Department and he considers that the printed amendment already in your possession covers the requirements of this type of case very well indeed and does not require further amendment. I agree with him.

He goes on to say—

> If the applicant is not in an infectious state he is eligible to adopt a child and I can see no reason why this should be stated in the Act. After all, it rests with the judge himself as to whether he will grant the order or not.

I appreciate the approach made by Mr. Thompson to this matter, because in the past tuberculosis has, to some extent, been regarded as a stigma, and the people suffering from it have been most self-conscious of this fact. But I am sure Dr. Hislop will agree with me that today tuberculosis is not the stigma it was considered to be in the past. We are most fortunate in that the incidence of tuberculosis in this State has been reduced very considerably; and it is our earnest hope that over a period of 10 or 15 years it will be wiped out altogether.

That is because we have rigid standards. People have to undergo a compulsory examination, and the disease is caught in the early stages. By this means it is possible for it to be checked. I have just been informed that someone would like a further amendment to this Bill. I do not know what the amendment is; I only know that this fact has been whispered to me.

The PRESIDENT: That can be dealt with in Committee.

The Hon. L. A. LOGAN: I will leave the Committee stage of the Bill until a later sitting in order to give members an opportunity to think over what I have said in reply. If there are any further aspects which require clarification, I will do my best to get the information. I am not able to answer Dr. Hislop in regard to clinical and radiological matters; but from reading the Bill, I do not doubt that a decision is made on the evidence of the radiological tests. If more information is needed, I will have to obtain it from someone more versed in this matter than I am. I will have further investigations made in that regard.

I thank members for their approach to the Bill; and I hope I have given members satisfactory replies to their queries. When dealing with human beings we have to be as near perfect as we can to ensure that we are doing the right thing.

Question put and passed.

Bill read a second time.

ADMINISTRATION ACT AMENDMENT BILL

Second Reading.

Debate resumed from the 15th October.

THE HON. F. J. S. WISE (North) [5.48]: This is a very short Bill. It is a Bill for an Act to amend the Administration Act, 1903-1956. It deals with probate and matters affecting dutiable estates; and while it is short in terms of verbiage, it is important and far-reaching. It could be said that the imposition of duties on the estates of deceased persons and duties on various forms of disposition of property of all kinds, while the donor is living, has long been considered to be a valid means of the raising of revenues by Governments.

The Act of 1903 was subjected to a very severe scrutiny and review 25 years ago; and the Bill which became the Act of 1934 was looked at very intently by a Select Committee from this House. The result was, in the main, the law of the present day. It was conceded then that what was suitable in 1903, in regard to the needs for taxing legitimately the estates of deceased persons and paying duty on gifts made during their lifetime, and other forms of stamp duty, was outmoded at the time of the Select Committee; and it was considered that the very important changes which were made in the 1934 law better met the needs of the State at that time.

This Bill is not to be taken as one that will provide a general reduction of probate duties. If the announced intention of the Government at the time of the elections and since to reduce probate duties as such is to be given effect to, it will not be done in a wide and broad sense by the medium of this Bill. It is true that one clause in the Bill deals with certain retrospective aspects in regard to refunds made as duties on estates since 1956—and the small sum of £9,000 odd, as mentioned by the Minister, is involved in such refund payments. The Bill rather is to correct an anomalous situation, and one which could be quite unfair in circumstances when applying to gifts on which duty is chargeable on the death of the donor.

In effect, it has worked—I understand in the case of several people—very unfairly against the estate of the donor, although the gift was made quite legitimately, and proper stamp duty was paid thereon. The terms used in the Act—which involve the entire exclusion of the person making the gift—have acted—as was instanced by the Minister when introducing the Bill—quite unfairly in more than one case. There could be a doubt that if a man—the donor of the gift—made a property over to a relative and continued in such house or premises and shared them during his lifetime, he would make the gift invalid to the extent of being non-dutiable under the present law and its interpretation.

For many years it has been the belief that our law—which to a degree was modelled on the New South Wales law—could be interpreted sufficiently generously and administered so widely as to prevent injustices being done; but the case which occurred—to which reference was made by the Minister—in New South Wales, and which ultimately finished at the Privy Council, made it necessary to ensure that interpretation within the law was only possible in one direction. This will be done by amending the Act in accordance with this Bill.

I think it could be affirmed quite strongly that in the case of taxation due—especially by a large estate—and all probate chargeable on such estate on the death of a person, and the effect of gift duty, there has been very much attention and very much ingenuity applied by people skilled in these matters to show what might be done within the law; and what can be done by persons who wish to make donations of a substantial kind within the law during their lifetime.

I can recall that on the occasion of the Select Committee in 1934, much attention was paid to such points as that—that the way was open for persons to act within the law, and there was no doubt many people availed themselves of it. Our own probate assessors and legal advisers of the Government—particularly as I think the present Chief Justice was the person who drafted the law in 1934—would give a very generous interpretation of the point which has been decided by the New South Wales courts, and which was taken to Privy Council.

Had that case not arisen, I think this particular point would have been continued in a very generous interpretation as to its implications on the donor and the recipient. I think Mr. Watson would agree with that point of view.

The Hon. H. K. Watson: I would, certainly.

The Hon. F. J. S. WISE: So that even though correct duty had been paid, it could be, under the decision recently made on the New South Wales case, that a father could not, at the moment, give by way of gift with all necessary duties paid thereon, to his son a property to be his when he became of age, and for the father, at the time of his son's coming of age—and at that time receiving the title and interest in the property—to receive an annuity without the question, on the father's death, of probate duty being raised.

Surely that could not be the intention of the framers of our own law at the time of its being framed! Moreover, this Bill provides that the duty chargeable may only be assessed to the extent of the value of the gift at the time it was made; because, as the law stands at present, the difference in value at the time the gift was made from the value when the person received the benefit of the estate could be indeed ruinous. This Bill, in seeking to ensure that the value of the gift shall be the value to be assessed at the time it was made, will give the proper value for the assessing of any duty due under the Administration Act. Where gifts have been made between one living person and another living person since 1956, the provision in the Bill is just. It will make provision for the refunds which are necessary in regard to duties payable in excess over the last three years.

From those who are well versed—and there are those in this Chamber—in matters affecting probate law, we can expect, I would assume, a very important contribution to this debate.

But as a layman who has a simple knowledge of the law, because of the initial Bill introduced in 1934, and the subsequent amendments, I make my observations in lay form. I support the Bill.

THE HON. H. K. WATSON (Metropolitan) [6.0]: After listening to the apt contribution by Mr. Wise to the debate, I am reminded of these words—

> For forms of Government let fools contest;
> Whate'er is best administered is best.

In respect to the administration of probate duty in this State, we must concede that the Act has been interpreted and applied in the spirit in which it was enacted. I say nothing at the moment of the pinpricks which do arise in the course of making a probate assessment. There are times when one feels that the probate office could be a little less pernickety in regard to the vast amount of detail for which it calls; but be that as it may, I would say that in applying the Administration Act in this State a much more generous view, and a much more commonsense view is taken than is taken in the State of New South Wales

It has become notorious that the Commissioner of Stamps and his officers in that State regard it as their duty to put a microscope on the Act and look for every possible way in which to extract the uttermost farthing from a deceased estate. So it comes about that over the years the records of the Privy Council contain numerous appeals by executors in New South Wales against decisions of the Commissioner of Stamps in that State.

It is rather extraordinary that if an executor in New South Wales appeals to the Supreme Court and wins his case, the Commissioner of Stamps, either out of pure cussedness or for some reason which is not apparent to me, seldom takes the appeal to the High Court but generally hauls the unfortunate executor before the Privy Council. As a result, there are several Privy Council cases on the particular section with which the Bill is concerned; namely, section 74 of the Administration Act.

Subsection (2) of that section is, in terms, identical with the Finance Act of 1894 of the United Kingdom. When the Australian States imposed probate duty, they took the Finance Act of the United Kingdom as their base; and so it comes about that the State of New South Wales has a provision which is, in terms, identical with our section 74 (2), and the corresponding provision in the English Act.

Section 74 (2) provides that any gift made between living persons, if made within twelve months before the death of the person making it, forms part of the donor's estate. Accepting the position that death duties are, as Mr. Wise said, a valid form of exacting revenue for the Government, no objection can reasonably be raised to that provision.

The intention of paragraph (b) of that subsection was that if a person, at any time before his death, made a gift, but had not done so in a *bona fide* manner, then upon his death the value of the gift was to be deemed to be part of his estate. Again, no-one can take exception to that provision.

The Hon. F. J. S. Wise: If the *bona fides* were challengeable, there was double tax.

The Hon. H. K. WATSON: When the gift is a *bona fide* one, that should be the end of the matter, but if it is not a *bona fide* gift—if, for example, I gave my brother a property and said, "You can have this property and I will transfer it to you, but so long as I am alive I am to have all the rents from it," it would be contended that, under section 74 (2), that property should form part of my estate; and that was the general intention of the section. It was never intended to apply to a gift which may have been made 30 years ago, and from which the donor may have, within the last couple of years of his life, had some enjoyment, not by right, but simply by the good grace of the recipient.

Take the case of a man who may have given his daughter a house on her wedding-day, and the daughter and her husband lived in it for, say, 20 years, and then the father, in the closing years of his life, came to live in the house. It was never intended that such an eventuality should bring that property in as part of the father's estate when he died; and, in this State and in other States, for 50 years that provision has been so interpreted. But in 1956, the Commissioner of Stamps in New South Wales, in the relentless manner of which I have made mention, decided that gifts of that nature could, on the strict working of the Act, be brought into the estate of the deceased person.

The actual case which gave rise to the unexpected interpretation of this section by the Privy Council has been explained by the Minister It was a case where a person, in 1934, made a gift of a farm to one of his sons; and when he made it it was complete and finished. A year or two later the father and that son, and another son who owned his own property decided that for the efficient working of their farms they would carry on the three properties in partnership; each one retaining the ownership of his own property, but for convenience' sake using one lot of machinery for the three farms, and so on.

The Hon. G. Bennetts: A community system.

The Hon. H. K. WATSON: Yes, which is a general practice. The partnership was carried on for many years. The father died in 1955. It was held when the father died in 1955 that, because this

partnership had existed, there had not been strict compliance with the precise words of the section, and, therefore, the farm which he gave to his son in 1934 had to be brought into the value of the estate in assessing probate duty in 1955; and not only had it to be brought in in 1955, but it had to be brought in at its value in 1955 and not at its value when it was given to the son in 1934.

Whilst that was the actual case, it suggests other instances whereby the section, with that rigid interpretation, could work serious hardship in many directions. I might mention the ordinary illustration of joint ownership; but before doing so, I might express some regret that this Bill to amend the Administration Act does not also contain the promised amendment to exempt the family home from death duties. But I expect that an amendment in that direction will be produced to us later in the session. On that point I cannot help feeling that the way to amend any Bill is not piecemeal. If we have one Bill coming down during the session to amend the Administration Act, why not gather all the amendments that are necessary and put them in that one Bill instead of bringing down a Bill in October, another in November, and probably another in December?

The Hon. F. J. S. Wise: This might be the one that applies to the exemption.

The Hon. A. F. Griffith: I hope you are not right about the one in December.

The Hon. H. K. WATSON: I heartily reciprocate the Minister's hopes. As the Act stands, taking the simplest case of a husband converting the family home into joint ownership—even if he did it 30 years ago—the whole of the property would be taxable to him today because he had not thereafter ceased to live in it. That interpretation was never intended; and neither has it been so applied up to date; but, because of the decision of the Privy Council, our Commissioner of Stamps now has no option but to apply the Act in the manner in which it has been interpreted by the Privy Council.

Sitting suspended from 6.15 to 7.30 p.m.

The Hon. H. K. WATSON: Before tea I had given various illustrations of the unexpected manner in which paragraph (b) of subsection (2) of section 74 of the Administration Act had worked. It appears that the trouble has been caused by certain words in that subparagraph, to which I wish to make reference. They are—

> Every gift *inter vivos* if made at any time, if such gift relates to property of which possession and enjoyment has not been bona fide assumed by the person taking under such gift forthwith thereafter, and thenceforward retained to the entire exclusion of the person making the same, and without any reservation to that person of any benefit to him by contract or otherwise.

Looking at that provision as it stands, one might be excused for suggesting that it might well have finished after the word "forthwith"; but in order to make assurance doubly sure that its purpose would be effected, it goes on and says that possession must be assumed by the donee thenceforth to the entire exclusion of the person making the same; and it is those words "entire exclusion" which were the critical words in the Privy Council decision that gave rise to the introduction of the Bill now before us.

We cannot quarrel with the interpretation of the words "entire exclusion" if they are taken in their literal meaning, as the Privy Council took them. "Entire exclusion" means entire exclusion, and if a man gave a property away 20 years ago but happened to live in it this year and then died, clearly that house has not been occupied to the entire exclusion thenceforth and for ever of the person who made the gift. It is a quibble, but there it is; and the insertion of those words has not only made assurance doubly sure as regards bringing within the ambit of the Act cases which it was intended should be brought within that ambit, but has also gone much further and has brought within the ambit of the Act cases which, in one's wildest imagination, were never conceived to come under that section; and, as I have said, the section has been interpreted for over 50 years in the manner in which everyone understood it, and in a manner contrary to that in which the Privy Council has recently declared it ought to be interpreted.

As we know, decisions of the Privy Council are binding on courts in Australia; and in those circumstances our own Commissioner of Stamps has no alternative, failing an amendment of the Act, but to apply the Act as at present interpreted by the Privy Council. This Bill, therefore, purports to remove the peculiar position that has been created by that decision; but if we look at the Bill we find it does not remove any of the anomalies of which I have made mention. It still leaves the position that, if a farmer gives a farm to his son and, at any time between making the gift and his death, sharefarms it with him or goes into partnership with him, it is part of his estate.

If a husband gives his wife a half interest in the house which is the family residence, there, again, he does not give that gift to his entire exclusion, and that forms part of his estate; so all the cases I have mentioned have not been removed by the Bill from the ambit of the Act. All the measure does is to leave the anomalies standing; and to say that they will not apply except in respect of gifts of that nature which have been made within the past three years.

The Act at the moment is limitless. It applies to a gift made no matter how long ago—whether three years or 30 years ago—and all the Bill does is not to remove what one might describe as the mischief of the words in question, but merely to seek to limit their operation to gifts made within three years before the date of death. It seems to me that, in those circumstances, the Bill does not go far enough. Even with respect to gifts which have been made three years ago, I suggest that, if they have been made *bona fide*, the mere circumstance that they have not been held thenceforward and thereafter to the entire exclusion of the donor should not mean that they must be brought within the estate; but they will be brought within it under the Bill as it stands.

So we still have this position; that if a person gave a relative a house two years and 11 months ago and happened to live in it this week-end and then died, that house would have to form part of his estate. Similarly, if he gave a farm away 2 years and 11 months ago, and happened to farm it with his son this month and then died, it would come within his estate.

The Hon. F. J. S. Wise: I take it that would not apply in the case of a transference to a joint tenancy?

The Hon. H. K. WATSON: In my opinion it would, within 2 years and 11 months. If that transaction had taken place five years ago, the Act as it now stands would apply to the transaction; but under the Bill as it stands it would not apply. But in my opinion any creation of a joint tenancy during the past 2½ years would still be subject to the anomaly; and it seems to me that that is wrong and that we should endeavour not only to limit the period within which the anomaly can occur, but also to say that the anomaly should be removed, and to remove it as best we can.

I would also like to point out that there are several ways in which a person can make a gift; but the two principal ways are these: he may make a gift straight out and transfer a property to the donee, or make a gift of money or of shares straight out, unconditionally and without any qualification; and in that case one can reasonably apply the words or the condition that *bona fide* possession and enjoyment must be assumed by the person undertaking such gift. That is fair enough; but there is also another way of making a gift, and that is by a declaration of trust. This Act declares that a declaration of trust is likewise included under the subsection with which we are dealing; but when a gift is made by way of declaration of trust the general routine, as members know, is that trustees are appointed under the trust and they control the trust's assets for the benefit of the beneficiary; but the beneficiary may not forthwith obtain possession and enjoyment of the property.

Not infrequently the trustee holds the trust for the benefit of the beneficiary; but in strict legal terms the beneficiary himself does not have possession and enjoyment of the property. If it was a straight-out gift the recipient would—he would own the property and enjoy possession and enjoyment of it; but with a trust it is different. Whilst the expression here which requires that the gift should relate to property of which possession and enjoyment has not been *bona fide* assumed by the person taking under such gift, is apt to deal with a straight-out gift, it is not apt to deal with a gift which constitutes the creation of a trust.

Similarly, I feel that those words "retained to the entire exclusion of the person making the same" could well be left out of that section in the principal Act, without exposing the revenue to the risk of losing something which it is intended to receive. I believe that the exclusion of those words from the principal Act, while doing no harm to the Treasury, would simply give effect to the practical, commonsense view of the section as it was always intended to operate and as it has, in fact, been interpreted for over 50 years. I have therefore placed on the notice paper a couple of amendments to which I invite the Minister's serious consideration, because I feel that those amendments are necessary to give effect to the Minister's intentions; namely, to bring the wording of the Act strictly into line with what I think everybody will consider to be the real commonsense purpose of it.

Mr. Wise, during his speech, referred to the extensive amendments made to this Act in 1934. This has prompted me to draw attention to section 81 of the Act which appears to have been inserted in 1934. When one reads that section—which I have done in browsing through the Act as a whole since this Bill was introduced—one is almost terrified to think that if ever that section went before the Privy Council one might find an unexpected interpretation placed upon it, even more disastrous than the section with which we are now dealing.

That is because it declares, in so many words, that if a person makes a gift or declares a trust in an attempt to evade payment of death duty, he is liable to double duty. It is treated as a gift under section 74, and a person is liable to double duty under that section. In so many words, it provides, "If you make a gift with the intent of evading duty . . . ." If one were reading that section in 1934, one would say, as Mr. Wise has said, "We know what that means for all practical purposes. We know that a man, whenever he makes a gift, would be straining our credulity if he said that death duty had never entered his mind when he made it."

I think the average person, when considering the question of making a gift, has a lively appreciation of the saving he will effect in death duties. Yet, when we consider how some of these sections have been interpreted by the High Court and the Privy Council in recent years, we could well find that, on the literal wording of the section, any person who had made a gift could be liable for the payment of double death duty. I suggest to the Minister that he might refer to his advisers with a view to ascertaining whether a precautionary measure might be necessary in respect to section 81 in order to save some unfortunate citizen an awful shock in years to come.

It seems to me it is all wrong that, because we, as legislators, fail to appreciate a weakness in an Act or to express our intentions in clear wording, a citizen has to engage in expensive litigation to find out what the intention of Parliament is. If, when the red light or even the amber light is raised, we can, by a few words, clarify the position and let the people know what their legal rights and obligations are, it is our duty to ensure that that is done. I support the Bill; and, as I have indicated, when it goes into Committee I will ask members to consider the amendments which I have on the notice paper.

On motion by the Hon. E. M. Heenan, debate adjourned.

KATANNING ELECTRIC LIGHTING AND POWER REPEAL BILL

Second Reading

Debate resumed from the 15th October.

The HON. A. L. LOTON (South) [7.51]: This is only a small Bill, which seeks to do exactly what has been explained by the Minister. The repealing of the Katanning Electric Lighting and Power (Private) Act will enable the State Electricity Commission to take over the electric light undertaking at Katanning. The State Electricity Commission originally intended to acquire the Narrogin electric power plant and then proceed to Katanning, but over the weekend I have been advised by the responsible authorities in Narrogin that they are now prepared to allow the State Electricity Commission to go to Katanning first.

The Narrogin electric light and power supply plant is on A.C., and the Katanning plant is on D.C.; and one of the reasons why the people of Katanning desire the State Electricity Commission to go there first is that all new domestic appliances or installations will be able to operate on A.C. immediately, which will save a great deal of expense to those concerned.

I must, however, take this opportunity to correct one statement made by the Minister. When introducing the Bill, he said—

> The town's supply is now in such a bad state that the commission has been urged to take over the undertaking at an earlier date.

That is completely misleading, because within the last two years the flour mills have installed additional plant to a value in excess of £2,000 to meet their requirements; and, therefore, to say that the Katanning people are urgently requesting the State Electricity Commission to take over the undertaking as soon as possible is incorrect. I would say to the Minister that whoever supplied him with that information did not tell him the true story as it affects the people in Katanning. With these few remarks I recommend the House to support the Bill.

THE HON. L. A. LOGAN (Midland—Minister for Local Government—in reply) [7.53]: The only reply I wish to make is to the comment about the bad state of the electricity supply in Katanning. My notes contain the following:—

> The town's supply is now in such a bad state that the Commission has been urged to take over the undertaking at an earlier date.

The reason why that sentence has been included in my notes is that the very same thing was said by a deputation from the Katanning Road Board. Surely, when members of a deputation interview a Minister and say that the conditions relating to the electricity undertaking are bad, the Minister is entitled to use those words when he introduces such a Bill.

If the people who made such representations were trying to make an impression and give the State Electricity Comission an added incentive to take over the electricity supply undertaking at Katanning, there is probably an excuse. The State Electricity Commission did not want to take over Katanning's electricity supply at that stage. It would have preferred to go to Narrogin first, because that town is already on A.C., and the commission would only have to connect up with the electricity supply.

When the State Electricity Commission proceeds to take over the Katanning electricity supply undertaking, it will have to convert the whole town from D.C. to A.C. So, apparently to bolster up the case, the people who interviewed me in effect said, "The plant is in pretty bad condition. What about taking it over?" Therefore, I do not know why objections should be made to the Minister using the same words when introducing this Bill.

The Hon. G. Bennetts: Who stands the expense of making alterations to household appliances when the commission takes over?

The Hon. L. A. LOGAN: The State Electricity Commission, I suppose. The cost of any switch from D.C. to A.C. has to be borne by the concessionaire and not the individual. If, however, the wiring in any home is in bad condition and it requires to be renewed, the cost of the re-wiring has to be borne by the householder.

Question put and passed.

Bill read a second time.

In Committee.

Bill passed through Committee without debate, reported without amendment, and the report adopted.

COMPANIES ACT AMENDMENT BILL

In Committee

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

Clauses 1 to 3 put and passed.

Clause 4—section 105A added:

The Hon. A. F. GRIFFITH: Members will recall that, when replying to the debate on the second reading of the Bill, I undertook to put Mr. Willesee's mind at rest in regard to inquiries that he made during the second reading stage. Mr. Willesee asked whether both companies and individuals could make up registers on behalf of another company as provided in paragraph (b) of proposed new section 105A.

I can give this assurance: As I said during the second reading, the Interpretation Act defines the term "person" to include a body corporate. This would enable the keeping of registers by individual persons and bodies corporate. The honourable member referred to proposed subclause (3). This provides a penalty where a company and any officer infringes any part of proposed new section 105A. The principal Act defines "officer" as the manager or secretary of a company. As the word "person" was not used, Mr. Willesee wondered whether the penalty could apply to the person referred to in proposed new subsection (1) (b). This penalty is not aimed at the person, or body corporate, keeping the register of another company, but is provided as punishment for that other company—or its manager or secretary—which fails to comply with the requirements of proposed new section 105A.

During the second reading, Mr. Watson cleared up those points. I undertook to make sure of the points; and I hope the explanation is satisfactory to Mr. Willesee.

The Hon. W. F. WILLESEE: I raised the points as a matter of public interest. Mr. Watson gave exactly the same explanation as the Minister has just given. In the past some Acts have contained one intention, but the verbiage used has created another situation. I did not want any misunderstanding in this case, and I am happy with the explanation.

Clause put and passed.

Title put and passed.

Bill reported without amendment and the report adopted.

BUILDERS' REGISTRATION ACT AMENDMENT BILL

Second Reading

Debate resumed from the 14th October.

THE HON. H. C. STRICKLAND (North) [8.3]: This Bill seeks to amend the Builders' Registration Act, which appears to be unique in that it is the only legislation of its kind in the English-speaking world, if not the whole world. It applies to the metropolitan area around the City of Perth. I cannot describe the area to which it applies, because I cannot understand the second schedule of the Metropolitan Water Supply, Sewerage and Drainage Act. The area defined in the latter Act is the one referred to in the Builders' Registration Act. Without a map, one cannot follow the boundary of the metropolitan area. The Act refers to locations X, Y and Z in the metropolitan area, and to the numbers of locations in other parts. I understand this area covers most of the city and the suburbs; and it extends from Wanneroo down to Safety Bay and Rockingham. It covers the built-up areas of the city and the suburbs.

I understand the Act was introduced, in 1939, with the object of improving the standard of the buildings in Perth. After 20 years of operation of the Act, I am not aware that the standard of the structures in and around Perth is any better than the standard of buildings in Melbourne, Sydney, Brisbane, New York, London, Paris, or any other city one might call to mind.

We now have before us a Bill which proposes to tighten up the qualifications of builders, who are to be permitted to operate in the prescribed area. As the Minister explained, while the Act applies only to the metropolitan area at present, it is possible by an order-in-council to extend the Act to any part, or to the whole of the State. In the last 20 years that has not been done; and I hope that it will not be extended beyond its present ambit. Personally, I believe that the Act should be repealed.

I am not opposing the Bill completely. There are parts which are bad, and there are parts which are designed to ease the stranglehold which a number of builders now have in respect of buildings exceeding a certain cost in the metropolitan area.

The Hon. A. F. Griffith: Do I understand that you think the whole Act should be repealed?

The Hon. H. C. STRICKLAND: In my personal opinion it should be repealed. After 20 years of operation I cannot see how the Act has brought about an improvement in the quality of the buildings in and around Perth, as compared with the buildings in other capital cities and in country towns in Australia. There is no difference in the standard of the structures in the metropolitan area, from the standard of the buildings in Northam, Geraldton or Kalgoorlie.

The Hon. A. F. Griffith: Do you not think the public will be deprived of a lot of protection?

The Hon. H. C. STRICKLAND: I have explained my reasons. I do not think the Act offers any protection to the public. I believe it loads the cost of buildings for home-buyers, and it increases the cost of homes. It pushes up the cost of buildings; and consequently rentals increase, and the basic wage rises.

The Hon. A. F. Griffith: This State has the cheapest building rate for the whole of Australia.

The Hon. H. C. STRICKLAND: I hope the Minister will tell us his own views when he replies.

The Hon. A. F. Griffith: I was trying to be helpful.

The Hon. H. C. STRICKLAND: I know the Minister's political outlook, but I would like to know his personal feelings on this matter. I have expressed mine.

The Bill seeks firstly to amend section 4 of the Act. This amendment will delete some of the exemptions provided under the Act in respect of professional men, such as architects, engineers, and metallurgists. Those categories of persons are to come within the ambit of the Builders' Registration Board. Hitherto they have been exempt from the provisions of the Builders' Registration Act, and they have been able to undertake contracts of any size or nature without reference to the board.

As the Minister said, up to now the Builders' Registration Board has not been able to control the activities of those professional men. That is a fact, because under the Act they are exempt, and the board has no jurisdiction over them. There may be a deeper reason for the inclusion of these men, than the reasons given by the Minister. For instance, if the board cannot control the activities of these architects, engineers, and metallurgists, is it conceded that the board has found something wrong with their activities? If the board has found something wrong, why is it proposed to bring such persons within the ambit of the board, whether or not their work be up to the standard required? The Minister did not explain that. The Bill proposes simply to enable them all to be registered.

By so doing there will be a twofold effect. Firstly, the board will have some jurisdiction over the activities of these professional men. If the Bill is passed, the board will be able to collect a registration fee of five guineas from each of these persons; that has not applied up to the present. Because these people have been exempt from the Act and have been permitted to carry on building work—where others who follow building construction as an occupation have been denied the right to undertake building contracts exceeding a certain amount—I agree with the Minister that they should be brought under the jurisdiction of the Builders' Registration Board and pay an annual registration fee of £5 5s., in the same way as other categories of persons do who are permitted to build in the metropolitan area.

There appears to be one anomaly which the Builders' Registration Board conveniently overlooked when it asked for these amendments to the Act. Section 4 requires persons who build in the metropolitan area to be registered if the cost of the contract exceeds £800 in value. There is a statutory exemption up to £800. That means that anyone who erects a building costing £799 19s. 11d. has no need to be a registered builder. That amount was inserted in the Act in 1948. In the original Act in 1939, the statutory exemption was £400.

Strangely enough, although the board is asking for increased fees for itself and increased registration fees, it is not raising the exemption which is to remain at £800, where it was 11 years ago. That means a person could not buy a prefabricated garage and erect it without breaking the law unless he put it up for himself and not for sale. Therefore, the situation seems a little ridiculous; and I feel that, taking into consideration the money value, the figure should be at least £1,600, because, since 1948, the figure has not been altered.

Further on in the Bill is a provision for the fees of the board members to be increased. Strangely enough, every time the Act has been amended in recent years these fees have been increased. In 1939 the fee was one guinea a member; in 1953 it was two guineas; in 1956, three guineas; and in 1959—if this becomes law—it will be four guineas. The board members' fees have increased 300 per cent. over the past 20 years, but the statutory exemption has been increased by only 100 per cent., thereby tightening up and restricting further the provisions of this Act as it affects every citizen living within the metropolitan area.

The registration fee in 1939—that is the fee paid by a registered builder—was one guinea, and in this Bill there is a provision

that the fee be five guineas. The board has requested this increase, but some builders are objecting to it.

Therefore, there has been a 400 per cent. increase in regard to the board's fees, but when we look at money values, the original limitation in 1953 was £4,000. It was increased in 1956 to £5,000, and it is now intended that it be increased to £10,000. Therefore, there will have been an increase of 150 per cent. to 200 per cent. in that regard. In the meantime, we find that all costs have also been increased. The basic wage has gone from £4 2s. 8d. in 1938 to the present rate of £13 18s. 7d. Therefore, I would say that the board has overlooked that part of section 4 which exempts every person from the provisions of the Act.

I remember that on a previous occasion, when explaining the provisions of an amendment to the Act—I think, in 1953—Mr. Watson said the £4,000 limitation for the additional builders seemed rather odd; and he queried what would happen in relation to prefabricated houses, stores, or buildings, which could be bought and erected in the metropolitan area. I agree, but a qualified builder is not required to erect those types of buildings. It would depend in some cases on the type of land on which they were to be erected, but in other cases it would not. We find that a person living in the metropolitan area could not engage someone who was not a registered builder to erect a garage or prefabricated shed if the cost exceeded £800; and most of them cost £800 and upwards these days. Therefore, it seems that something has been overlooked in relation to the statutory limitation. I do not know whether it is possible to move an amendment in relation to this matter.

The next amendment in the Bill is to section 5 which is to provide for the existing chairman. I do not know whether the Minister told us that or not, but it seems that is the position. The Act lays down that the constitution of the Builders' Registration Board shall consist of five members—the President of the Western Chapter of the Royal Australian Institute of Architects; the Principal Architect (Government), who shall be chairman; a representative appointed by the Master Builders' Association of Western Australia; a representative of the workers engaged in the building trade, nominated by the Governor—the workers' representative is the only one who is nominated by the Governor—and there is a representative appointed by the Western Australian Builders' Guild (Incorporated).

It will be seen that the board, as it now exists, is appointed from the various organisations. The members have no set period but are appointed until one of these organisations decides to change its representative, or the Governor decides to change the building trades workers' representative. It seems rather a queer set-up, and one which is certainly unique, in my opinion. I do not recollect that, in any other Act, the members of a board are not appointed for a fixed term; but, they are eligible, of course, for reappointment.

However, the amendment in the Bill is to delete the words "The Principal Architect" who shall be chairman and insert instead the words "an architect appointed by the Governor." I have studied the Bill and cannot find that the board or the Act are subject to a Minister. There is one section which says that the board shall "in the month of January . . . . publish in the *Government Gazette* if the Minister so directs." That is the only provision that gives the Minister any say at all. It refers to the publishing of the register of registered builders. Therefore, it is rather a queer kind of a measure when it is studied all round. There is no reference at all to the board being subject to the Minister in any other respect.

The board is appointed for an indefinite period—the members are—but the direct Government liaison with the board would be severed by this amendment. I know that the present Principal Architect, who is chairman of the Builders' Registration Board, is due to retire shortly, and I do not suggest that he should not continue to be chairman. Under the Act he could not. However, I think some provision should be made whereby at least one member of the board is a Government officer, so that the Government has some direct association and contact with the Builders' Registration Board.

The Hon. A. F. Griffith: Has it occurred to you that the Principal Architect is an extremely busy man and laden with a great many duties?

The Hon. H. C. STRICKLAND: I am not saying that he is not. That could be quite so, and the Governor might appoint another officer. The amendment leaves it quite open but the Bill does not specifically state it. The Governor could appoint any other architect which, to my way of thinking, means an outside architect. My objection to that part of the Bill is that it severs completely any direct contact between the Government and the Builders' Registration Board. Admittedly, the Government provides no funds, the board existing on its own resources; but the Government should surely have some direct association with the board, either through the Minister or by a member on the board. Therefore, I do not agree with the proposed amendment.

The next amendment is to section 6 of the Act and provides for an increase in the board's fees from £3 to £4 a sitting, with a limitation of £50 8s. per annum, instead of £30 16s.

Then there is an amendment to add a new section. This is to provide that the members of the Royal Australian Institute of Architects (Western Australian Chapter) registered under the Architects Act; and

the members of the Institution of Engineers, Australia (Perth Division); and members of the Australasian Institute of Mining and Metallurgy shall be registered on the payment of the prescribed fee. They will not have to pass any examination.

I fail to see why these professional men should be registered without a practical examination. We know they have passed through some University and obtained a degree in architecture, engineering, or metallurgy, but that does not mean that they are competent builders. If anyone would like some recent evidence of that fact, I would invite him to inspect the office of the Minister for Local Government. Although that building was erected by day labour, it was designed and laid out by a private firm of architects; and an inspection of the office to which I have referred would reveal that particular firm's idea of building to present-day requirements. Rather than that these people should be allowed to practise without paying fees, I agree that they should pay fees, and, for the reasons I have just mentioned, be brought under the control of the Builders' Registration Board.

Section 10 of the Act is the one which controls the A-class builder. The A-class builders, as well as those who have passed examinations since that time and have been admitted by the board, were the ones who were brought in by this dragnet section in 1939, and again in 1946. It is interesting to look at the parent Act and see what builders were included in this dragnet provision in 1939. I would remind members that this is the Act which is supposed to protect the public from shoddy builders. That was the object of the Act, and that appeared to be the Minister's idea from the interjections he made about a quarter of an hour ago. Section 10 states—

> Subject to the payment of the prescribed fees, any person who applies to be so registered under this Act shall be entitled to be so registered, if the board is satisfied that such person has attained the age of 21 years, and is of good character, and that such person—
>
> (a) has completed the prescribed course of training, and passed the prescribed examinations; or—

The next paragraph is the important part—

> (b) had at the time of the passing of the Act been trading as a builder or supervisor of building for not less than two years and that he is competent to carry out and supervise building work.

The definition of "builder"—and it is still the same—reads—

> "Builder" means a person trading as a builder.

A "person trading as a builder" in the definitions is—

> any person who is engaged in constructing, altering, repairing, adding to or improving the walls and structural parts of buildings for a fixed sum, percentage, or valuable consideration, or reward other than wages.

So members can see what a tremendous scope there was in the parent Act. Anybody at all in the building trade in 1939, who desired to be registered could be registered as an A-class builder.

It is an important point because there are many builders who are registered today, and who came in under that provision, who have never been asked to pass an examination or fulfil the obligations which are required without the proposed amendment to section 10A. This is an amendment with which I agree. It has a twofold purpose. Firstly, it will have the effect of increasing the limit on B-class builders from £5,000 to £10,000, which means that whereas these builders were unable to take on a contract in excess of £5,000, it is the intention of the board to allow them to take contracts up to £10,000. That cost includes the provision of materials, cartage, and all the necessary services, including plumbing, and so on. Because the amendment will ease the restriction, I am prepared to agree to it.

The second provision will mean that B-class builders will not have to provide the board with statutory declarations and details of every contract which they have undertaken in the previous 12 months. B-class builders have to do more than £5,000 worth of work in 12 months—unless they have some genuine excuse, such as sickness or being absent on holidays—otherwise their registrations are cancelled. That is the elimination clause. While I disagree with that, I am sorry that there is not a similar provision in respect to A-class builders.

If this Bill is intended to clean out all the shoddy builders who came in under the dragnet provisions of 1953, why not clean up the A-class group by saying that if any members of that group have not carried out £5,000 worth of work for the year, their registration shall be cancelled? After all, many of those who were registered in 1939, and again in 1946, were overseers, supervisors, and the like; and they came in when the gate was opened.

All the B-class builders had to submit their contracts to the Builders' Registration Board during the years 1957 and 1958, but the board has entirely overlooked others who might be doing shoddy work. I do not know whether it is so or not, but there could be shoddy builders in the A-class group just as there could be in the B-class group. When the gate was opened in 1953 it was thrown wider open than in

1939. Anybody who applied to be registered as a conditionally-registered builder had to be registered by the board.

The board has reported on several occasions that cooks, women, journalists, and all sorts of other people, applied to be registered—and had to be registered. The figures reached 1,600; but not all those people were building houses for other people. They were self-help builders, and they saw a way of saving themselves money. Because they were registered by the board, they were able to get builders' discounts for the materials they purchased. But those people have dropped out since because of the provision that they had to do more than £5,000 worth of work each year. That is a provision which it is desired to abolish by this Bill, but I think it is quite a good one.

The Minister has told us that some 400-odd B-class builders still remain; and they had to prove to the satisfaction of the board that during 1957 and 1958 they did in fact do £5,000 worth of work or more in each year, unless they had a good reason for not doing the work. The work those builders have done has been subject to the scrutiny of the local authorities' building inspectors, the Builders' Registration Board, architects, and inspectors of the State Housing Commission. They have had to prove that they can do the work, and accordingly the numbers have been whittled down until only the genuine builders remain.

Let us take these B-class builders and put them in the same category as the A-class builders. Why should a limitation be placed upon them as regards the contract price? At present the limit is £5,000 for the metropolitan area, and it will be £10,000 if the Bill is passed. Yet anywhere else in the world, so long as builders are qualified, they can build what they like. That is one of the anomalies about the Act as it stands.

Provision is made in section 10 that any person from outside the State can be registered by the board if the board is satisfied that he is a genuine builder. He does not have to pass an examination like a local man. I think that is rather tough on Western Australians. The relevant section states—

> Although not having complied with the requirements of items (I) or (II) of this subparagraph has nevertheless had such experience in the work of a builder, elsewhere than in the State, as to render him in the board's opinion, arrived at in such manner as the board thinks fit, competent to carry out building.

The board can register a man if he comes from another State, or from overseas; but a Western Australian who has been vetted, watched, and had his work examined, and whose contracts have been checked by the board, cannot be registered unless he passes the prescribed examinations. Surely the time has arrived when that barrier should be removed, because the Minister told us that the board is satisfied that the remaining B-class builders are competent. If that is so, the board should have removed the barrier which these builders have in regard to their registration as A-class builders.

After all, the remaining B-class builders have passed the best examination of all —the practical test. Their work has been thoroughly examined by the board and all the other inspectors I have mentioned. Theorists can work out theories; professional men can work out theories; but it is the practical work that counts. We often find lawyers arguing with lawyers; and so we cannot say that because a man is a professional he is any more competent than the man who has done practical work.

The Hon. A. F. Griffith: We sometimes find a member of Parliament arguing with a member of Parliament.

The Hon. H. C. STRICKLAND: We will continue to argue; it would be a sorry day if we were not allowed to argue.

The Hon. A. F. Griffith: Hear, hear!

The Hon. H. C. STRICKLAND: These B-class builders have proved themselves; and the board admits it. The number has been whittled down so that only the competent ones remain. Why should they not be on the same basis as the A-class builders? The board should look through the list of A-class builders to see whether they are all competent, because they may not be.

We have the case of a builder who is not registered under either section 10 or section 10A; and yet he has built public buildings to the value of £750,000 in recent years—since 1952—in and around the metropolitan area, and also some in the country. We find the proposed new sections contained in the Bill—namely, sections 10B, 10C and 10D, which are the penalty sections—set out after that type of man in order to debar him from building in the metropolitan area.

We all know this man—a builder by the name of Costello. He has erected many public buildings—buildings of which the plans had first to be submitted in duplicate to the Public Works Department and the Department of Public Health. It was necessary for both those departments to pass the plans and specifications and give their approval for the commencement of the building. After these public buildings had been constructed by this man, they could not be used or occupied until the same departments had given a certificate that they had examined them, passed them, and agreed that they were all right.

We have yet another quaint situation. We have the Principal Architect, who is chairman of the Builders' Registration

Board, sitting on that board and saying who shall and shall not be registered; and we have the same person, as the Principal Architect, approving all the plans for public buildings—schools, hospitals, convents and churches—of a man who is not registered under the Act.

Surely if the Principal Architect is satisfied, and the Commissioner of Public Health is also satisfied, that the work comes up to standard and complies with all their requirements, and those of the local authority, that man should be registered as a competent builder. Surely he has proved in his time that he has built to the satisfaction of all concerned! Why should he be deprived of registration as a builder because he is not able to study and pass the examinations prescribed; while on the other hand, anybody who comes from overseas, or from any foreign country, can become a registered builder so long as he is naturalised and assures the board that he has been a builder in his own country?

The Hon. R. C. Mattiske: Has that builder ever applied for registration?

The Hon. H. C. STRICKLAND: Yes; I understand he applied in 1945 or 1946. He was given an oral examination and a letter was written to him later saying that he had failed. He had been manpowered, and had been in Darwin and other areas, and was out of touch with costing, in which he failed.

The Hon. R. C. Mattiske: Has he since taken a course at the technical school?

The Hon. H. C. STRICKLAND: Should he have to do so?

The Hon. R. C. Mattiske: If he is unregistered.

The Hon. H. C. STRICKLAND: Why should not the man from Sydney do the same?

The Hon. R. C. Mattiske: I will tell you.

The Hon. H. C. STRICKLAND: Can one get any better indication of a builder's ability than the building he has erected? All one has to do is to go and have a look at it. It is interesting to read that in 1952 a new classroom was being opened by Bishop Goody. This was built by Costello at Mary's Mount.

The Hon. R. C. Mattiske: Was he building a masonic hall.

The Hon. H. C. STRICKLAND: He paid a tribute to Mr. Wild, and then went on to talk of the excellent workmanship and artistic work that Mr. Costello had put in to the completion of the building. We also find the following tribute to Costello paid by Mr. Wild, the Minister for Housing at that time. He said—

> If all builders were as sympathetic and co-operative as Mr. Stan Costello, my work and the work of the Housing Commission would be much easier.

That is from *The Record* of the 27th March, 1952. Those are the words of Mr. Wild—the Minister responsible for introducing this Bill to tighten the ropes around this builder whom he lauded seven years ago. There is no doubt about the job of work that this man is able to carry out; one only has to look at the buildings he has erected.

The position is most anomalous when we find the Principal Architect saying, "Yes, everything is all right"; and then the same man sitting on the Builders' Registration Board and not being able to say, "This man should be registered without passing the examination." All the architects can be registered without passing the examination. I would suggest to Mr. Mattiske that he pay a visit to the Minister for Local Government, particularly when the manager of the State Insurance Office next door is speaking on the telephone.

The Hon. R. C. Mattiske: That was done by day labour.

The Hon. H. C. STRICKLAND: The whole thing is ridiculous in its entirety, and I oppose the new sections 10B, 10C and 10D. When the Minister introduced the Bill, he said that the proposals in it were the result of recommendations by the Master Builders' Association and the Builders' Guild. I received a circular posted to me from the Western Australian Builders' Guild which shows that that body does not agree with the entire Bill. It does not agree with the portion that lifts the restriction on the B-Class builder from £5,000 to £10,000 value.

The Hon. F. R. H. Lavery: I wonder why.

The Hon. H. C. STRICKLAND: Nor does it agree with the increase in fees from £3 3s. to £5 5s. I suppose that is natural, because nobody wants to pay more to become registered as a builder. On the other hand, this can grow into a tremendous monopoly. Over the 20 years of its existence up to June last year, only 280 builders had passed the prescribed examination for an A-Class builder. One can easily visualise that the time will come when these old 1939 and 1940 builders, who must be getting a bit long in the tooth, will go out of existence, and the building trade will develop into a tight little monopoly. There are moves to extend this throughout Western Australia; and if that is done, it will be pretty tough if some farmer wants somebody to put up a prefabricated shearing shed, because he will have to get a master builder to do it.

The Hon. R. C. Mattiske: Who says there is a move to extend it to the country?

The Hon. H. C. STRICKLAND: There is a move, and the honourable member knows it.

The Hon. R. C. Mattiske: I do not. Can you tell us more about it?

The Hon. H. C. STRICKLAND: I cannot tell the honourable member more than he knows. We can visualise the sort of thing

that will face Western Australia if that happens. Despite the fact that there were 1,600 people contracting as B-Class builders, I have never heard any outcry in Parliament about shoddy buildings in the last six years. Nor has there been an outcry in the Press or anywhere else. There was no outcry that people were being robbed or let down, despite the fact that these people were apparently registered in 1953 as B-Class builders; and despite the fact that there were cooks, journalists, etc. registered. I understand there were even some women registered.

The fact that there was no outcry surely speaks for itself, and shows the Act is futile and has no force whatever. If anyone can convince me that the quality of the buildings here is any better than that in other parts of Australia or the world, I will be prepared to listen to him. If the board registered these women—these cooks and typists—what thought had it then for the poor public about whom the Minister was talking earlier this evening?

The Hon. R. C. Mattiske: It was your Government that did it without reference to the industry.

The Hon. H. C. STRICKLAND: I know; and I do not deny that for one moment. It was done to speed up the programme, just as it was by the McLarty-Watts Government in 1945. But they did not say, "You shall be a conditional builder." They said, "You will be an A-Class builder for all time." That is where I feel the board is falling down. If it is going to put a fine tooth comb through one section of its members, surely it should do the same with the other sections! So, while I oppose most of the provisions in the Bill, those that ease the restrictions I am prepared to support.

THE HON. R. C. MATTISKE (Metropolitan) [8.59]: I have listened with great interest to the speech made by Mr. Strickland; and, quite frankly, I am concerned with his lack of knowledge of the parent Act. That Act was never introduced to improve buildings; it was introduced to protect the public against exploitation. That was the whole thing in a nutshell. To say that it was to improve buildings is a totally wrong conception.

The Hon. H. C. Strickland: That is what the Minister said.

The Hon. R. C. MATTISKE: It is a totally wrong conception. The whole purpose of the original Act was to protect the public. Just as the public are protected by the necessity for drivers to obtain a license of competency before they can drive a motor vehicle, in the same way it is necessary for a builder to have a license before he can erect a building—to prove his competency to do the job. As Mr. Strickland said, this legislation is unique. It has attracted interest from various parts of the world; and at present, in Victoria, there is a move to introduce similar legislation.

The Hon. A. F. Griffith: It was introduced by a Labor Government in 1939.

The Hon. R. C. MATTISKE: That is right.

The Hon. H. C. Strickland: And carried on by the Liberals!

The Hon. R. C. MATTISKE: This legislation has done much in the post-war period to keep the building industry in Western Australia as clean as it is today. I would draw Mr. Strickland's attention to conditions in New South Wales and Victoria, where many people—fly-by-nights—came into the industry and exploited the public. They sucked the money from the public and went away comparatively unscathed. They exploited the public in no uncertain manner; but we did not have any exploitation of that nature in this State.

The Hon. H. C. Strickland: I remember a big court case here a few years ago.

The Hon. R. C. MATTISKE: As Mr. Strickland said, when the legislation was introduced, the gate was thrown open, and it was possible for anyone at all to become registered provided he could prove to the satisfaction of the board that he had engaged legitimately in the practice of a builder and could establish that he had erected certain buildings. Where there was any doubt, the board made inquiries in regard to his previous activities; and if it was not satisfied, it would not grant him registration.

I agree with Mr. Strickland that there must have been many persons who were not fully competent but who were then granted registration. But that is the same with any legislation. Where legislation is introduced to restrict individuals in a certain manner, full account must be taken of the work in which a person has been engaged up to that time. Therefore, if there is any doubt, a person cannot be deprived of this avocation because of the introduction of some legislation.

Mr. Strickland also mentioned the reopening of the dragnet—as he calls it—in 1945. That was done for a special purpose. During the war period there were many persons serving with the Armed Forces who were out of this country when their time for registration as builders expired. Many of them, when they came back, were granted special relief under the Act, under which they had a certain time in which they could register. Some of them were perhaps ignorant of that right; and there were others who, for one reason or another, had failed previously—owing to the upset war conditions—to register prior to the running out of their legal time. In fairness to these people it was felt that the whole thing should be thrown open again so that any person who had had an injustice done could have the opportunity

of coming forward and being registered so that he could follow his normal avocation of builder.

The Hon. F. R. H. Lavery: What time was that?

The Hon. R. C. MATTISKE: That was for registration as a builder. Following that, in 1953, Mr. Tonkin, who was then Minister for Works, introduced legislation under which a new class of builder would be admitted—a conditionally-registered builder, as he was then known. That builder was admitted without any examination whatsoever. All that was necessary was for him to be a naturalised British subject and to send someone down with the prescribed form filled in and for that person to go back with his registration ticket. That is how simple it was.

The Hon. A. F. Griffith: After paying 10s. 6d.!

The Hon. R. C. MATTISKE: That is so. At that time, Mr. Tonkin took action without reference to the industry. He did not confer with either the Master Builders' Association or the Builders' Guild; but I understand he did confer with the Carpenters' Union; and I understand further that the Carpenters' Union was very keen that these persons should be entitled to register in this manner. These conditionally-registered people were brought in, and they were permitted to erect work up to £2,000 in value. With the flood of persons who came in by this means were many who paid their 10s. 6d. merely to get trade discounts.

As Mr. Strickland said, members will recall those troubled times when building was at a premium; and even if people could get the available materials, they had extreme difficulty in getting the necessary labour to erect their homes. This was at a time when we had such great accent on the owner-builder—the self-helper. I am not decrying him for one moment, because it was a source of labour which helped us, in this State, to overcome our housing problem.

However, this self-help builder, who then registered as a conditionally-registered builder, was able to go along to the various merchants and say that he was a registered builder and, as such, claim various trade discounts. That was the reason why many obtained their registration. They were not builders in the ordinary sense. They did not build house after house for clients. They merely had one structure in view; and when that was completed, they were no longer interested in registration.

Subsequently, when the renewals came up, many of those persons did not bother about renewing their licenses. Many others who, in the first place, obtained registration in this manner, found they did not receive the advantage they initially thought they would, and they, too, withdrew from further registration. Therefore, to enable the Registration Board to put the building industry in order, its request was given effect through the Minister, and through this Parliament, under which it was necessary for a person to show that he was doing at least £5,000 worth of work in any one year before his license would be renewed for the following year.

Provision was made for those who might suffer illness or be out of the State to carry on as builders if they were legitimate builders. The value of the work involved—£5,000—was small. No person operating as a builder could continue to operate if he were doing only £5,000 worth of work in one year. Therefore, the figure was an exceptionally low one, but one which enabled the Builders' Registration Board to keep tab on these fellows and seek out those who were not, in the true sense of the word, legitimate builders. It could then have control over the legitimate builders and administer the Builders' Registration Act as it should be administered.

I think we can completely discount a lot of what Mr. Strickland said about a dragnet and the opening of the gate, as it were, to allow anyone in. We can discount his reference to B-class builders.

The Hon. H. C. Strickland: What about A-class?

The Hon. R. C. MATTISKE: Another point referred to by Mr. Strickland was the section which deals with the lack of necessity for anyone to register if he is carrying on work to the value of £800 per year. That was put in the Act for a very special purpose. It was initially included to allow those persons who did not claim to be builders but who carried out renovations and repair work to perform their normal avocation. There are many of those fellows; and I venture to say that within the next few years we are going to see a great increase in that type of activity. I venture to say here and now that in the next few years the total value of work done by way of renovation will closely approximate the total value of work being done on new buildings.

Therefore, a provision was placed in the Act initially so that any person engaged in renovations could continue that work up to the value of £400 without the necessity of having to register. Subsequently, it was felt that with increasing costs, the figure of £400 should be increased to £800, at which figure it stands today; a figure which I feel is very reasonable for that type of individual. When the conditionally-registered builders were introduced, there was provision for those fellows—if they so desired—to be registered as conditionally-registered builders. Subsequently, when the designation was changed to B-class builders, they still had an opportunity to be so registered; but they did not

choose to, for the simple reason that they were content with the type of work they were doing, and were content with the provision that was made for them under the Builders' Registration Act. So do not let us cloud the issue by saying that here is a type of person who is having an injustice done to him. That is not the case.

The Hon. H. C. Strickland: The figure has not been brought up. You say it should stay at £800?

The Hon. R. C. MATTISKE: Mr. Strickland referred to the registration of architects and engineers. There is a special reason for this necessity.

The Hon. F. R. H. Lavery: There is always a special reason!

The Hon. R. C. MATTISKE: Under the existing legislation there is no need for a qualified architect or a qualified engineer to register. Although it is not normally the practice, it is quite in order for an architect or engineer to contract for the erection of buildings and to carry out that work. That has been done quite a bit in recent years. But in the policing of the Builders' Registration Act, the Builders' Registration Board has a big problem. It has to find out who is in charge of a particular building operation.

Under the Act, it is provided that all registered builders must display their names on the work under construction. But there has been no provision whereby any qualified architect or qualified engineer has to display his name. So we can have the position under which there can be quite a number of buildings in course of construction without the name of any registered builder showing thereon; and, consequently, the inspectors of the board are put to a considerable amount of trouble, and a waste of money is involved in endeavouring to find out who is the person in charge of a particular building project. It is now proposed that these two classes —architects and engineers—shall also be registered. Registration will be granted automatically because they have qualified through examinations which are of a higher standard than those required under the Builders' Registration Act.

I sent a copy of this Bill to the Institute of Architects as soon as it was introduced in another place, asking for its comments. I have not received any reply, and can therefore only assume that it has no objection to this particular provision in the Bill. If that institute has raised no objection against this provision; and if it is necessary for the proper policing of the Act, then it should be contained in the Bill.

The Hon. F. R. H. Lavery: This Bill does not make it compulsory for them to display their names.

The Hon. R. C. MATTISKE: It does. This Bill removes from the parent Act the lack of necessity for them to register.

The Hon. A. F. Griffith: Only if they are going to build.

The Hon. R. C. MATTISKE: If a person is not going to build, he is not concerned with the Act, anyhow.

Another point to which Mr. Strickland referred covered fees—not the fees payable by a registered builder, but the fees payable to the members of the board. As stated, on this board there is the Principal Architect, who is the chairman. There is another architect, two builders, and a representative of Trades Hall. From my connection with the building industry, I know that these men spend a terrific amount of time on this work. Although they may meet only once a fortnight or so—at certain stages they meet considerably more often——the fees are limited to one payment a month. They put in far more effort than is represented by the one payment. Outside of the meetings, they do a terrific amount of work. They make personal inspections; they check on certain jobs when they receive complaints from owners who are dissatisfied with the reports of the inspectors. There are many things that take up their time—court actions and matters of that nature—in addition to the time they spend at the meetings. I feel that for the total amount of £50 per annum, prescribed in the amending Bill, the building industry is getting a very good service from these persons.

I am sure that if no payment whatever was made for their services, they would give those services just as readily. The payment is a mere pittance, but it is a gesture, in all fairness, of appreciation for what is being done. I hope there will be no quibble concerning it.

The Hon. H. C. Strickland: Are you the secretary of the board?

The Hon. R. C. MATTISKE: I have no connection with the Builders' Registration Board whatsoever, and never have had.

The Hon. H. C. Strickland: Are you the secretary of the guild?

The Hon. R. C. MATTISKE: I am the secretary of the W.A. Builders' Guild. Another matter to which Mr. Strickland made reference was the amendment to section 5 which deals with the chairman of the board. On this subject I have knowledge because, as secretary of the Builders' Guild, I was recently aware that Mr. Clare, the Principal Architect, was about to retire fairly shortly. I am aware, also, of the great amount of work that Mr. Clare has put in to the Builders' Registration Board and of his immense knowledge of the background that is necessary for the proper administration of the Act.

Right through the industry there was regret that, with his retirement as principal Architect, Mr. Clare would automatically have to cease as chairman of the Builders' Registration Board. Therefore representation was made to the Minister for Works that the Act be amended, as is

now proposed, so that the chairman of the board could, in future, be an architect appointed by the Minister, and not necessarily the Principal Architect of the Public Works Department.

It is still left open for the Minister to appoint the Principal Architect, or an architect of the State Housing Commission, or any other architect directly employed by the Government. But at the same time if, for the reasons I have stated, it is felt desirable to appoint someone other than a person employed by the Government, then the right to do so will be included in the legislation; and I do know that Mr. Clare is ready, willing and able to carry on as chairman of the Builders' Registration Board; and I hope from the angle of the industry that he will be permitted to do so, by the House agreeing to this provision in the Bill.

When Mr. Strickland was referring to what he called an anomaly in section 10 concerning persons who may come to this State from elsewhere without having passed the necessary examination, and was comparing them with persons from Western Australia who were obliged to register under the Act he again was not fully conversant with all of the conditions in the industry.

The reason that provision was put in the Act was to provide for those persons who came from England and elsewhere, and who had been carrying on the business of builders outside Western Australia, and desired to set up in business here. I can readily call to mind two persons covered by this provision. One was a Mr. Mahon, at present operating in Collie, who came from England with the whole of his set-up—carpenters, bricklayers, labourers, etc. He brought everything out, lock, stock and barrel. But, because he was excluded under the then Builders' Registration Act and could not operate in the metropolitan area, he went to Collie where he operated on a restricted basis. He came here prepared to exercise all his skill, invest his capital, and provide employment for persons urgently wanted in the building industry at that time; but he was debarred from doing so because of the Act.

The Hon. H. C. Strickland: Would no-one else tender for the jobs?

The Hon. R. F. Hutchison: Did he apply for registration?

The Hon. R. C. MATTISKE: He did not start building in the metropolitan area, but went to a country district where it was not necessary for him to be registered. It is a sorry state of affairs when persons are prepared to establish themselves in the building industry and give employment but are not able to do so. We also have the case of the Jennings Construction Company which came to Western Australia from Victoria. This company is a big building organisation which has done a colossal amount of work here in the last few years at a reasonable figure, as will be evidenced from any of the contracts that it has carried out successfully for the State Housing Commission. This company would not have been permitted to operate here had it not been for an amendment to the Act which enabled persons from outside of the State, who could prove to the satisfaction of the board that they were carrying on the practice of builders and were competent builders, to be registered. These people proved their qualifications by building, as Mr. Strickland has said; not necessarily in this State, but outside of the State.

The Hon. H. C. Strickland: Why not apply that to the chap in the city?

The Hon. R. C. MATTISKE: I feel we cannot quibble at that section; and there is no comparative injustice being done to anyone in this State. So far as the extension to the country is concerned, Mr. Strickland indicated that there was some move afoot to have the operations of the Act extended to country districts. I know it would be quite impracticable to do that. At present there are many persons in country areas who are registered builders —some of them are registered as A-class and some as B-class. They obtained their registration voluntarily, thinking it may give them a certain standing in the community where they were operating; or thinking that it would give them a certain advantage later should they move to the metropolitan area. I commend them for their foresight, but it is not obligatory at present for persons outside the metropolitan area to be registered.

If the Act were extended, I would say that the only possible practical means of doing it would be by extending it to certain districts such as Bunbury, Albany, Geraldton, or Kalgoorlie, where there is a certain concentration of building which would enable policing of the Act without undue expenditure on inspections. But so far as covering the whole of the State, or the South-West Land Division, or any other section of the State is concerned, it would be quite impracticable from the angle of policing the Act; and the Act would be made a farce if it could not be properly policed.

There are two aspects of the Bill to which exception is taken in the industry. I am not quite sure whether Mr. Strickland said that the Minister, when introducing the measure, said that it had been brought down with the complete approbation of the Master Builders' Association and the Builders' Guild.

The Hon. F. R. H. Lavery: That is correct.

The Hon. H. C. Strickland: He was advised.

The Hon. R. C. MATTISKE: That statement by the Minister was not wholly right. Although the trade may have expressed its approval in certain ways, there

are points in the Bill of which the industry had no knowledge whatsoever until the measure was introduced in another place. The first of these is the provision under which the amount for B-class builders is to be stepped up from £5,000 to £10,000. In the circular from the President of the Builders' Guild—this circular was sent to all members of both Houses —it is stated—

> Members of this Guild, which embraces approximately two hundred practising builders, are concerned at certain provisions of the Bill for an Act to amend the Builders' Registration Act at present before you and on their behalf I respectfully submit their views for your consideration.
>
> The proposed amendment to section 10A of the principal Act by increasing from £5,000 to £10,000 the value of contracts which may be entered into by a "B" Class builder is strongly opposed. It is submitted that the instruction classes conducted by the Technical School are well organised, are readily available to any person desirous of improving his knowledge of essential aspects of the building industry and are extremely beneficial. The examinations are very reasonable and not restrictive as evidenced by the number of persons passing each year. In view of this, and in fairness to those who have already completed the examinations, it is felt that there is every opportunity for a "B" Class builder to improve his status to "A" Class and then engage in any type of contract.
>
> Furthermore, as the Act was originally designed to protect the public it is contended that by permitting "B" Class builders, most of whom were recently admitted without examination, to engage in work up to £10,000 the protection to the public will be removed to a large extent. Any "B" Class builder, at present permitted to engage in contracts up to £5,000, who is not prepared to improve his knowledge and so qualify as an "A" Class builder is obviously not the type to be permitted to carry out work on contracts of £10,000, many of which could involve technical difficulties.

The Master Builders' Association, in a letter I have received, has this to say—

> The proposal to amend section 10A of the Builders' Registration Act does not meet with the approval of the Master Builders' Association of W.A.
>
> The present limit of £5,000 value for any one contract which may be entered into by a "B" Class registered builder gives him a scope covering up to a good quality and fairly large house, etc. Any increase of this limit would demand a higher standard of skill, and the proposed limit of £10,000 could involve the use of technical ability which should be proven.
>
> At present a builder graduates to higher responsibility by qualifying for "A Class" registration, and this is achieved by experience and examination. The instructional courses are well organised and are conducted so that enrolment is simple and convenient. By such instruction the standard of skill required is preserved and the individual becomes competent to handle the hazards of administration with more confidence.
>
> A progressive builder can easily qualify for his higher responsibility, and is entitled to greater consideration than a builder who is not prepared to advance his status. Only by fixing a qualifying requirement can the standard necessary for good building be maintained.

Therefore the two trade associations directly connected with the building industry have stated in black and white that they are not in favour of the proposed amendment to section 10A.

The Hon. F. R. H. Lavery: Where did the Minister get his information?

The Hon. R. C. MATTISKE: I do not know; but he did not get it from these two associations.

The Hon. H. C. Strickland: From their representatives on the board?

The Hon. R. C. MATTISKE: The course of instruction for the examination is conducted by the Technical College; and it covers only those phases of the building industry which are directly necessary for any person engaging in the practice of building.

The examinations are not difficult. I have seen the examination papers from year to year, and also know of some of the blunders that certain individuals have made in the examinations; but any person who is prepared to devote a little of his time at night to the technical classes should have no difficulty whatever in passing the examinations. A year or so ago there were two partners engaged as builders at Northam, and they travelled to Perth to attend the classes. Both passed the whole of the A-class examination in one year. The papers are set by instructors appointed by the Builders' Registration Board, and they are competent and qualified men—

The Hon. H. C. Strickland: Who are the examiners?

The Hon. R. C. MATTISKE: They are the instructors. They set and mark the papers. They know the work that has been done by the candidates during the year; and where there is any doubt as to the ability of the individual to express himself, the benefit of the doubt is given.

The inability to express oneself is something which must be taken into consideration, because many persons practising as builders may not have the ability to express on paper during an examination what is in their minds. I repeat that where there is any such doubt, the examiner takes into account the attention that the individual has paid to his work in class during the year, and gives him the benefit of the doubt. I also repeat that the number of persons who have passed the examination is evidence that it is by no means restrictive.

The Hon. E. M. Davies: Is there any provision about the amount of practical experience?

The Hon. R. C. MATTISKE: They must have been actively engaged in the industry for seven years; and that leads to another point. There are individuals who have passed the examinations, but who have not been able to be registered until they have fulfilled that qualification. Mr. Plunkett, the son of the late C. H. Plunkett, is one of those people. He passed the examination easily, at an early age, but had to work on jobs for seven years until he could be registered.

The Hon. H. C. Strickland: And a man from the East can be registered after he has been here seven minutes!

The Hon. R. C. MATTISKE: He has to prove, to the satisfaction of the board, that he has been operating legitimately as a builder in the Eastern States before coming here; and he must prove that he has erected certain buildings; and a check is made of the statements contained in his declaration. However, I raise this point: Although when the gate was first opened for the conditionally-registered builders anyone could register, subsequently many of them dropped out and the number is now down to 400-odd B-class builders. There are quite a few people registered as B-class, who are competent so far as the building of houses is concerned, but who have not the ability to pass examinations. That is something which is not peculiar to the building industry.

If I had to pass an accountancy examination now I would probably flounder a lot. These men may be quite competent builders; but to sift the competent from the incompetent men in the B-class, the board has a most difficult task. I feel sorry for many of those fellows, and think something should be done to permit them to be examined in a practical way, if they can prove that over a period of, perhaps, three or five years they have erected certain buildings in a tradesmanlike manner.

The Hon. H. C. Strickland: But they must have proved it, to have maintained their registration.

The Hon. R. C. MATTISKE: Until the registration board can solve that problem there remains the necessity to protect the public. If the limit is raised to £10,000, as the Bill suggests, it will mean that contracts for commercial or industrial work, often involving technical difficulties, could be undertaken by some of these men; and they might get into difficulties and involve the owner in a great deal of trouble and expense before he could get the building finished by another contractor. Therefore, I repeat that until some means is found to sift out the incompetent B-class builders, we should proceed cautiously and leave that provision as it is in the Act at present.

Another point to which I desire to raise objection, and which was never referred to the industry, is the proposal to raise the annual registration fee from three guineas to five guineas. On that point the Builders' Guild says—

> It is considered that in view of the large number of builders registered the total income on the basis of a registration fee of three guineas should be sufficient to enable normal administration and inspections. In view of this it is respectfully suggested that during the debate, members give close attention to the financial structure of the board, prior to agreeing to any proposed increase in the fees.

At the present time there are 440 B-class builders registered and about 720 A-class builders actively engaged in the industry. That total of 1,160-odd builders, with a three guinea registration fee, will provide approximately £3,660 per anum. From this sum have to be met the normal administration charges, the payment of the registrar, typing staff, and so on, and normal stationery and other expenses involved in maintaining the office, together with the payment of meagre fees to the members of the board; and there has also to be taken into account the fact that two full-time inspectors have to be provided. I understand that the amount of work at present being carried on in the metropolitan area is such that two inspectors are fully engaged on it. They are paid at the same rate as inspectors of the State Housing Commission, and they receive a car allowance.

The Hon. H. C. Strickland: Do they both inspect the same buildings?

The Hon. R. C. MATTISKE: No.

The Hon. H. C. Strickland: Why not?

The Hon. R. C. MATTISKE: One inspector is sufficient to say whether a building is being carried on in accordance with normal practice.

The Hon. H. C. Strickland: Then the board does not protect half the public.

The PRESIDENT: The honourable member should ignore interjections and address the Chair.

The Hon. R. C. MATTISKE: I cannot ignore that interjection, because it raises

an important point which I think I should mention for the benefit of members. The inspection is carried out only where a complaint is received by the board. When a complaint is receive as to the quality of workmanship or materials on a job an inspection is made, and if the complaint is soundly based the board may call on the builder to show cause why his registration ticket should not be cancelled if he does not make good the defects.

With the volume of work at present being carried on, there are sufficient complaints to warrant full-time employment of the two inspectors.

The Hon. H. C. Strickland: Are they registered builders?

The Hon. R. C. MATTISKE: Yes; they are persons who were previously engaged in the building industry, and they are competent to say whether the work is being carried out in a proper manner.

The Hon. A. F. Griffith: If the £3,000 odd is the only income of the board, the inspectors cannot be paid very well.

The Hon. R. C. MATTISKE: The income at present is £3,660 odd; and taking into account administration fees, the payment of the inspectors, and the other incidentals which I mentioned, the expenditure must be in excess of that figure; but during the period when there was a great influx of conditionally-registered builders, the board had a considerable income, which may have enabled it to build up a reserve of funds with which to carry on for a while. I do not know the state of the board's finances at present, or whether it has used up that reserve; and I do not know whether it can keep going for another few years. Neither do I know whether it is necessary to increase the registration fee from three guineas to five guineas.

Perhaps if we increased the registration fee from three guineas to four guineas that would be sufficient; I do not know, and that is why I would like the Minister, when replying, to give full details with regard to the financial structure of the board. Then, if we are satisfied that the fee should be fixed at five guineas, the industry will have no kick coming at all.

The Hon. H. C. Strickland: You have forgotten the architects and engineers who will be coming in.

The Hon. R. C. MATTISKE: The number of architects and engineers who will come in as practising builders could be counted on the fingers on one's hands. It is not the normal practice for architects or engineers to practice as builders; but in recent years a few of them have done so. However, I believe that the income received from that source will be very small.

I commend the Bill to the House; but when it is in the Committee stage, I propose to test the feeling of members by moving to delete the provision which seeks to increase the maximum value of the work that can be undertaken by B-class builders.

The Hon. A. F. Griffith: I hope that both you and Mr. Strickland will put your amendments on the notice paper, so that I can give them proper consideration.

The Hon. R. C. MATTISKE: I certainly will. I propose, unless the Minister when replying can satisfy me to the contrary, to move to delete the provision which seeks to increase the registration fees. Apart from those points, I feel that the measure is a good one which will improve conditions in the industry in this State. It will be by no means be restrictive; and it is essential to give the public protection and ensure that the building industry in this State carries on as smoothly as in the post-war period.

On motion by the Hon. F. R. H. Lavery, debate adjourned.

House adjourned at 9.44 p.m.

Legislative Assembly

Tuesday, the 20th October, 1959

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