of this Bill; and I can hardly believe that the Minister was finally convinced about the desirability of introducing it. I am sure that his first reaction, on being approached and having the request placed before him, was the right one; because he said he could then see no justification at all for the granting of the request.

Surely a State Electricity Commission of eight members is sufficient! If we increase the number to nine, we will then be asked to make it 10; and, eventually, the commission could become so large in numbers as to be cumbersome; and, instead of being a very efficient and progressive organisation, it could become one which would simply drift into the doldrums. I oppose the Bill.

On motion by Mr. I. W. Manning, debate adjourned.

House adjourned at 5.55 p.m.

Legislative Council

Tuesday, the 15th September, 1959

CONTENTS

The DEPUTY PRESIDENT (the Hon. W. R. Hall) took the Chair at 4.30 p.m., and read prayers.

QUESTIONS ON NOTICE

ROAD TRANSPORT

Subsidies for North-West Industries

1. The Hon. H. C. STRICKLAND asked the Minister for Mines:

   Which industries located in the North-West received road transport subsidies until payment of these subsidies was terminated prior to the 17th March, 1959?

   The Hon. A. F. GRIFFITH replied:

   During the years 1942 to 1947 the Transport Board subsidised the road transport of bananas, beans, and tomatoes from Carnarvon to Geraldton. This is the only occasion upon which road transport subsidies have been paid by the board in respect of North-West transport.

CROWN LAND

Elleker-Denmark District

2. The Hon. H. C. STRICKLAND asked the Minister for Mines:

   (1) Is it a fact that the Government intends to make available for selection, Crown land in the Elleker-Denmark district as a pretext to restore train services on that section of railway?

   (2) If the land is to be opened for settlement, what is—

   (a) the total area involved;

   (b) its exact location;

   (c) the number of farms to be established within the project;

   (d) the nature of produce envisaged;

   (e) the type of land settlement scheme proposed?

   The Hon. A. F. GRIFFITH replied:

   (1) No. However, Crown land between Elleker and Denmark, northwards from the main road, is being planned and surveyed for settlement.

   (2) (a) Approximately 60,000 acres.

   (b) Mount Barker-Marbellup-Hay River.

   (c) 100.

   (d) Fat stock and dairying principally.

   (e) Conditional purchase.

CANNING DISTRICT POLICE STATION

Commencement and Site

3. The Hon. G. E. JEFFERY asked the Minister for Mines:

(1) When does the Government intend to proceed with the construction of a police station in the Canning District Road Board area?

(2) Is it still intended that the station will be erected at the corner of Albany Highway and Nicholson Road, Cannington?

The Hon. A. F. GRIFFITH replied:

(1) Preliminary plans have been prepared by the Principal Architect and the work listed on the Police Department's priority list for construction, but when such building will commence depends on loan funds allocation.

(2) Yes.

ROADS IN THE SOUTH

Expenditure and Details of Improvements

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

(1) What amount of money is proposed to be expended during this financial year by the Main Roads Department in—

(a) the Lower Great Southern Zone Regional Council development area;

(b) the Central South Zone Regional Council development area?

(2) Which roads will benefit by this expenditure?

(3) What work is envisaged on the roads referred to in No. (2)?

The Hon. A. F. GRIFFITH replied:

(1) In the 1959-60 programme of works, the Main Roads Department provided the following funds—

(a) £670,210.

(b) £461,810.

(2) and (3) Due to the great deal of work involved, it has not been possible on short notice to give details of the large number of roads involved, but the following statements show allocations for each of the local authorities in the areas referred to:—

Lower Great Southern Zone Regional Council

	£
Albany Council	5,575
Albany Road Board	73,245
Broomehill Road Board	22,650
Cranbrook Road Board	53,010
Denmark Road Board	61,580
Gnowangerup Road Board	169,650
Katanning Road Board	17,460
Kojonup Road Board	46,510
Nyabing - Pingrup Road Board	55,800
Plantagenet Road Board	139,130
Tambellup Road Board	6,510
Wagin Council	—
Woodanilling Road Board	18,890
	£670,210

Central South Zone Regional Council

	£
Corrigin Road Board	29,350
Cuballing Road Board	10,630
Dumbleyung Road Board	13,010
Kondinin Road Board	58,940
Kulin Road Board	11,770
Lake Grace Road Board	46,320
Marradong Road Board	75,150
Narrogin Road Board	12,780
Pingelly Road Board	16,060
Wagin Road Board	10,940
Wandering Road Board	78,380
Williams Road Board	40,590
Wickepin Road Board	19,950
West Arthur Road Board	37,940
Narrogin Council	—
Wagin Council	—
	£461,810

TOWN PLANNING AND DEVELOPMENT ACT AMENDMENT BILL

Deputy President's Ruling on Standing Order No. 242.

The DEPUTY PRESIDENT (the Hon. W. R. Hall): On the 8th September, 1959, I was requested, as Deputy President, to give a ruling on the point as to whether the Bill for an Act to amend the Town Planning and Development Act, 1928-1958, was in order. The request was made by Mr. Wise, and I now propose to give members my ruling.

Mr. Wise has asked whether the Bill is in order on the grounds that since the Bill was not passed in the Legislative Assembly with an absolute majority, it, in consequence, contravenes the provisions of sections 32 to 35 of the Constitution Acts Amendment Act, and section 73 of the Constitution Act, together with Standing Order No. 242 of this House.

Sections 32 to 35 of the Constitution Acts Amendment Act set out the disqualifications which apply on the acceptance of an office of profit, or contract with the Crown, while section 73 of the Constitution Act provides that it shall not be lawful to present to the Governor for Her Majesty's assent any Bill by which any change in the Constitution of the Legislative Council or of the Legislative Assembly shall be effected, unless the second and third readings of such Bill

shall have been passed with the concurrence of an absolute majority of the whole number of the members for the time being of the Legislative Council and the Legislative Assembly respectively.

The provisions in the Bill which have been referred to by the honourable member declare that an office on the metropolitan region planning authority shall not be an office of profit from the Crown, the acceptance of which would render vacant the seat of a member of either House. It is, therefore, necessary to determine whether the removal of a possible disqualification effects a change in the Constitution of the Legislative Council or the Legislative Assembly.

I advise the House that in arriving at a decision I have studied several previous rulings given in this House, the principal ones being a ruling by an eminent constitutional authority on the Closer Settlement Bill of 1922; a ruling given on the Lotteries (Control) Act Amendment Bill in 1933; and, perhaps more important, the decision of this House against the President's ruling in 1958.

I have also referred to the Australian States Constitution Act which sets out those Bills which, for the purpose of assent, are not to be regarded as Bills altering the Constitution; but I find it has previously been held—and this House upheld the same view last year—that for all purposes except for reservation for assent, the Bills so listed do effect a change in the Legislature, and, therefore, require an absolute majority.

By seeking to remove a possible disqualification of a member of either House so as to enable him to retain his seat, the Bill now under consideration, in my opinion, comes into the category covered in paragraph (d) of subsection (2) of section 1 of the Australian States Constitution Act in that it "concerns the . . . . qualifications . . . . of elective members."

Under section 73 of the Constitution Act, it would be unlawful, therefore, to present the Bill to the Governor for assent unless the second and third readings had been passed in each House with the concurrence of an absolute majority.

By Standing Order No. 242, this House is prevented from proceeding with such a Bill unless the Clerk's certificate indicates that it has been passed by an absolute majority in the Assembly. The Bill received from the Assembly has no such certificate; and I rule, therefore, that this House cannot proceed with the Bill.

Dissent from the Deputy President's Ruling

The Hon. L. A. LOGAN: I appreciate the time you have spent and the detail you have covered in coming to your decision, Sir, but in all respect, I must disagree with your ruling. Of course, this is not the first time that a President's or Deputy President's ruling has been disagreed with, and, presumably, it will not be the last.

I have taken this step because I, also, have had inquiries made into this aspect, and I find that there are many cases—particularly those involving decisions of the High Court—where such amendments have not been considered to be amendments to the Constitution. You, Sir, have referred to quite a number of debates that have taken place in both Houses on a similar question. Such debates occurred in 1922, 1933, 1936, 1958; and probably, if one went back still further, a few others could be found.

I contend that the Town Planning and Development Act Amendment Bill does not alter the Constitution, as laid down in section 73 of the Constitution Act. The relevant provision in the Bill represents a contracting out, if anything, of the Constitution, and does not represent an alteration. If members will refer to section 73 of the Constitution Act, especially that part which is applicable to the Bill, the following will be found:—

> . . . it shall not be lawful to present to the Governor for Her Majesty's assent any Bill by which any change in the Constitution of the Legislative Council or of the Legislative Assembly shall be affected . . .

It will be noted that the words used are "shall be affected," but in the Bill the word "shall" is not used. There is nothing mandatory about the provision in the Bill. In other words, it "may" be done; not "shall" be done.

Therefore, I maintain that the Constitution Act will not be altered by the passing of the Bill. I think we could, with advantage, look at some of the decisions which have been given on this question.

In Macaulay v. King, (1918) 26 Commonwealth Law Reports, p. 9 (High Court), Justices Isaacs and Rich said—

> We speak of the constitution . . . of the Legislature meaning the rules by which its action as a recognised entity is regulated.

Taking those comments into consideration, I cannot see how proposed new subsection 54(a) of the Town Planning and Development Act Amendment Bill will affect the Constitution Act.

Further, it may be as well to refer to the meaning of the word, "constitution" as it affects section 73 of the 1899 Act, and how such meaning has been considered in various cases. In Taylor v. the Attorney-General of Queensland, (1917) 23 Commonwealth Law Reports, the following meanings were given to the word "constitution":—

> At page 468—The "composition," "form," or "nature" of the House.
>
> At page 477—The "nature," "composition," or "make-up" of the House.

I do not think I need to read any more definitions, because those I have already read show that the Constitution will not

be altered by the proposed new subsection in the Town Planning and Development Act Amendment Bill.

I think we can go back even further in the history of our own State, and it will be found that the advice given by the Crown Law Department is that Parliament is master of its own decisions; and if we as a Parliament decide that this provision is not contrary to the Constitution, then, in fact, it is not contrary to the Constitution. On page 1567 of Vol. 2 of the 1958 *Parliamentary Debates*, Mr. Wise had this to say on the very same question:—

> I point out, Mr. President, in speaking to the first point raised by you in support of your decision, that Parliament at all times is master of its own decision and destiny, and that precedent cannot always be taken as being absolutely correct.

The Hon. F. J. S. Wise: But what did Parliament decide on that occasion?

The Hon. L. A. LOGAN: On that occasion Parliament decided against the President's ruling. I do not think this is quite a relevant case, except that the honourable member, at the time, said that Parliament was master of its own destiny.

The Hon. A. F. Griffith: It was not Parliament that decided, but the Legislative Council.

The Hon. L. A. LOGAN: The Crown Law Department has said that Parliament is the one to decide whether there is any doubt, because it is master of its own decision and its own destiny.

However, I return to the original point I made; namely, that in the Constitution Act the words are "shall be affected." The provision in this Bill is not compulsory; it is purely arbitrary. Perhaps no one ever will be an officer of the authority. In fact, the provision may not remain in the Bill, because last Wednesday I gave an indication that it would be taken out of the measure. Therefore, that contingency may not arise. I know that a member may ask: "What happened last year?", but I repeat that I do not think the circumstances run parallel.

I will go this far, however, and say that if the decision were the same as that last year, I would be one of the first to admit that I had made a mistake. Having read the debate which took place last year and the various points which were then raised, I am man enough to admit that I made a mistake on that occasion. I ask members to give this matter very careful consideration.

If we examine the wording of section 73 of the Constitution Act, we find that it refers to any change that shall be affected in the Constitution. Under the Town Planning and Development Act Amendment Bill, it is provided that the Constitution shall not be affected if a member of Parliament becomes a member of the board. I repeat again that that is not likely to be the position.

I am aware that the Swan River conservation legislation was passed through both Houses of Parliament last year. That Bill contained exactly the same wording as the wording in the Bill before us, but it was not queried. Mr. Wise declared that he did have some doubts about that Bill; if so, the wording in it should have been taken out.

I do not want any doubts to be raised in regard to the Bill before us. This Parliament, being the master of its own destiny, is in order in disagreeing with the ruling of the Deputy President. I might mention that this provision in the Bill was challenged in another place, where the Speaker upheld the contention that it was not necessary to have an absolute majority.

The DEPUTY PRESIDENT (the Hon. W. R. Hall): I ask the Minister to comply with Standing Order No. 405, seeing that he has disagreed with my ruling. If the honourable member moves a motion, and it is seconded, such objection shall be taken at once, and in writing.

The Hon. L. A. LOGAN: I shall set out the objection in writing as soon as I have the opportunity. As I said earlier, you Mr. Deputy President, have gone to a lot of trouble in arriving at your ruling. I appreciate that you endeavoured to make a ruling which will be followed in this House. However, I contend you missed the salient point that this Bill will not and shall not affect the Constitution.

As Mr. Wise mentioned, Parliament is the master of its own decision, and therefore this Bill should be allowed to be proceeded with. I therefore move—

> That the Deputy President's ruling be disagreed with.

The DEPUTY PRESIDENT (the Hon. W. R. Hall): The Minister will now put his objection in writing. Standing Order No. 405 states that if the motion is seconded, it shall be proposed to the Council, and debate thereon forthwith adjourned to the next sitting day, unless the matter requires immediate determination. Does the House desire to deal with this motion forthwith?

[Resolved: that the motion be dealt with forthwith.]

The Hon. H. C. STRICKLAND: I listened very carefully to the remarks of the Minister for Local Government on his motion to disagree with the Deputy President's ruling. I cannot place the same interpretation on section 73 of the Constitution Act as the Minister did. I refer to the wording of that section, which is as follows:—

> Provided always, that it shall not be lawful to present to the Governor for Her Majesty's assent any Bill by

> which any change in the Constitution of the Legislative Council or of the Legislative Assembly shall be affected, unless the second and third readings of such Bill shall have been passed with the concurrence of an absolute majority of the whole number of the members for the time being of the Legislative Council and the Legislative Assembly respectively.

I emphasise the expression "shall have been passed with the concurrence of an absolute majority."

The Hon. L. A. Logan: The honourable member should place the emphasis on the correct word "shall" used in that section. The emphasis should have been placed on the term "shall be affected."

The Hon. H. C. STRICKLAND: It states, "shall have been passed." In the portion I have read out it is stated "unless the second and third readings of such Bill shall have been passed with the concurrence of an absolute majority."

The Hon. L. A. Logan: It refers to any change which "shall be affected."

The Hon. H. C. STRICKLAND: The portion I have read proves conclusively that this Bill should have been passed by an absolute majority in the Legislative Assembly—

The Hon. L. A. Logan: Where is the change in the Constitution?

The Hon. H. C. STRICKLAND: —which has not taken place.

The Hon. L. A. Logan: That is not required.

The Hon. H. C. STRICKLAND: The Minister told us that during the last session of Parliament, Mr. Wise on a debate on a similar motion, claimed that Parliament was the master of its own destiny. Nobody disputes that fact, but Parliament is not the master of the interpretation of its decisions when they are dealt with before a court of law. To say that Parliament is the master of its own destiny means that when Parliament makes a decision, it becomes a decision of Parliament. But that is not necessarily the decision of the court. The court interprets the laws which are made by Parliament.

In an attempt to protect members of Parliament in connection with this matter, Mr. Wise moved to put the Bill in order so that it would be properly constituted as a law. That was to protect the very members who made that law.

The Hon. L. A. Logan: They are protected.

The Hon. H. C. STRICKLAND: There is nothing in claiming that Parliament is master of its own destiny. It is certainly master of its own destiny, but only its destiny here in this House. It is certainly not master of the interpretation of the laws that it constitutes. That is proved daily, or almost daily, throughout the Commonwealth. Therefore, with all due respect to the Minister, I submit that in defending his case, he put up two very weak points indeed.

The Hon. L. A. Logan: That is only a matter of opinion.

The Hon. H. C. STRICKLAND: They were certainly not by any means convincing enough to alter my opinion that the Deputy President's ruling is absolutely correct.

The Hon. L. A. Logan: Get back to the interpretation I mean.

The Hon. A. L. LOTON: I agree with your ruling, Sir, on this matter. I think that the points raised by Mr. Logan are off the true foundation. Standing Order No. 242 is very definite on this point. It is as follows:—

> If any Bill received from the Assembly be a Bill by which any change in the Constitution of this Council or Assembly is proposed to be made the Council shall not proceed with such Bill . . . .

In this case there is no doubt, because in the Bill the members of the Legislative Council and the Legislative Assembly are mentioned. The Minister has himself confessed that there must be some doubt because he said he was prepared to withdraw this clause. Therefore, there must be some doubt in his mind.

The Hon. L. A. Logan: Not at all.

The Hon. A. L. LOTON: If there is not, why does he say he is prepared to withdraw the clause?

The Hon. L. A. Logan: That does not affect the situation.

The Hon. A. L. LOTON: I am inclined to say there must be some doubt in his mind for him to have any idea of wanting to take that clause out, because the Constitution Acts Amendment Act in section 41A is specific about this situation. I must weary the members by reading the whole of this section—

> Notwithstanding anything to the contrary contained elsewhere in this Act or in any other Act, a member of the Legislative Council or of the Legislative Assembly who is appointed as a member of a Select Committee (whether a Select Committee of either House or a Joint Select Committee) or as a member of any Royal Commission, or as a member of the Executive Council with the designation "Honorary Minister" shall not vacate his seat or incur disqualification under this Act by reason of accepting, for and in respect of expenses which may necessarily or reasonably be incurred by him in connection with or incidentally to the discharge by him of his duties as such member of such Select Committee or Royal Commission or such Executive Council (as the case may be), payment from the Crown of an

expenses allowance as prescribed by regulation which the Governor shall be and is hereby authorised to make under and for the purposes of this section.

I think that specifically states the only offices that a member of Parliament can accept without infringing the Constitution Acts Amendment Act; and, if he infringes that Act, he must disqualify himself as a member of the House. I support your ruling, Sir.

The Hon. H. K. WATSON: The proposed new section which gave rise to your ruling is 54(a) and reads—

An office of profit from the Crown, on acceptance of which office by a member of the Legislative Council or of the Legislative Assembly, his seat becomes vacant.

It does seem to me to be a matter for regret that this is the very section which gave rise to the ruling; and, on today's notice paper, we have notice of the Minister's intention to move to delete it. However, the fact remains that we must deal with your ruling, Mr. Deputy President, on the Bill as it is at the moment. If that provision in the Bill does anything at all, it modifies section 34 of the Constitution Acts Amendment Act which says that a member shall not do any of the things stated therein, provided that nothing in that section or the last preceding section shall extend to persons contributing to any loan money, and so on. Section 37 is likewise modified.

If that provision is to go on the statute book, it should be brought before us by way of an amendment to the Constitution Act. That is the only place for it. If it does not purport to amend the Constitution; it is void *ab initio* as it is still in the Bill. Therefore, we can only regard it as an indirect attempt to amend the Constitution; and if it does seek to amend the Constitution, either directly or indirectly, then it seems that having regard to the precedent established by this House in similar circumstances during 1958, this House, if it is to be guided by principles, should support your ruling.

That is my feeling on the question; and, in supporting your ruling, Sir, that the Bill is not properly before us, I am comforted by the fact that if the ruling is upheld the Bill will require only a little extra administrative work to put it in proper form to bring it before us again.

The Hon. A. F. GRIFFITH: With respect, you, Sir, gave as one of the reasons for this ruling that it would remove a possible disqualification from the Constitution Act. I think those were the words you used. I submit, with respect, that it does not remove the disqualification from the Constitution Act at all. It still leaves it there; but it does enable a member of Parliament, if he is elected as a member of this particular authority, to be free from that provision by reason of the fact that it permits him to contract out. In other words, it says that it shall not be held that section 34 of the Constitution Act shall play a part when proposed new section 54 of the Bill that is before the House, is incorporated; if it is incorporated.

It is extremely interesting to note how simple it is to have horses for courses, and to see the change that takes place when the course is altered. I have a volume here which contains the speeches made last year by Mr. Strickland and Mr. Wise, opposing very distinctly what they now say is a similar set of circumstances.

The Hon. H. C. Strickland: What did the two present Ministers say?

The Hon. A. F. GRIFFITH: One Minister has had his say, and I am endeavouring to have my little say now.

The Hon. H. C. Strickland: No, I mean last year.

The Hon. A. F. GRIFFITH: What I said last year, and I stick to it, was that the Bill which was before the House then to amend the Electoral Districts Act, and which also had an effect upon the Constitution, required a constitutional majority. What that Bill did, if members will recollect, was to take the word "Assembly" out of division 7 of section 156. This had the effect of having the words "voting is to be compulsory," instead of the words "voting for the Assembly to be compulsory." This meant that voting for the Legislative Council would be compulsory as well as voting for the Legislative Assembly. That would be a change and would have an effect upon the Constitution because it would alter the method by which members of this Chamber would be elected. But this particular matter has nothing whatever to do with a similar set of circumstances of last year.

The Hon. H. C. Strickland: It alters the Constitution.

The Hon. L. A. Logan: It doesn't.

The Hon. A. F. GRIFFITH: It does not alter the Constitution. In my opinion, it simply says that if a member of Parliament is elected to this authority, the office he thereby holds will not be regarded as an office of profit under the Crown. A similar provision was contained in the Swan River Conservation Bill, although I do not remember the exact wording.

The Hon. L. A. Logan: That is right.

The Hon. A. F. GRIFFITH: The wording was to the effect that a position on that particular board would not be regarded as an office of profit under the Crown. On that occasion did we say anything about it? Did the Legislative Assembly despatch the Bill to the Legislative Council with an absolute majority? I do not think it did, if my memory serves me correctly. Please tell me if I am wrong.

The Hon. L. A. Logan: You are right.

The Hon. A. F. GRIFFITH: The circumstances are the same here. Mr. Loton's statement that the Minister for Local Government has some misgivings or some uncertainty in his mind because he has given notice of his intention to withdraw the clause, has nothing to do with the question.

The Hon. A. L. Loton: It has a lot to do with the Bill.

The Hon. A. F. GRIFFITH: It has not one single thing to do with it because the Minister is uncertain on other matters.

The Hon. A. L. Loton: He is not the only one either.

The Hon. A. F. GRIFFITH: I know that frequently the honourable member is uncertain—

The Hon. A. L. Loton: I have not mentioned any names.

The DEPUTY PRESIDENT (the Hon. W. R. Hall): Order!

The Hon. A. F. GRIFFITH: It doesn't make any difference. The addendum to the notice paper today is quite lengthy on certain points concerning this Bill; and it would not be the first time that a Minister of the Crown in this House or another place, had another look at something which he had first of all presented, and subsequently deleted or added to. As a matter of fact, it is convenient at times to have the Legislative Assembly send up a Bill to this Chamber with the intention that some alteration should be effected here.

I know that on occasions a Minister in another place will give an undertaking that he will have his colleague in the Legislative Council insert something in or delete something from legislation when it comes before this Chamber. So with respect to the honourable member, I say that that has nothing to do with the situation.

It so happens that my colleague, the Minister for Local Government, said—and he had no reason to say it—that he proposes to delete that particular part of the Bill. But let us not argue this matter upon those grounds, because, in my opinion, such an argument does not hold weight. Mr. Watson has said that the clause will modify the Constitution. But I ask members: Where does proposed new section 54 alter the Constitution? I do not think it alters the Constitution at all; and, if it does not, then it does not require an absolute majority to pass it.

But the case we had before the Legislative Council last year was an entirely different matter, because the Bill we were concerned with then had a direct effect upon the Constitution. The provisions of that Bill stated that members of the Legislative Council would in future be elected by a compulsory vote of those people who were enrolled. Thus it would have made a direct change in the Constitution; but this Bill does not seem to me to have the same effect of altering the Constitution.

The Hon. L. C. Diver: If a member was appointed to that board, wouldn't he leave himself open?

The Hon. A. F. GRIFFITH: Is a member of the Swan River Conservation Committee open to action?

The Hon. L. C. Diver: I would say he was.

The Hon. A. F. GRIFFITH: The honourable member was a party to passing that legislation last year, as we all were, and no objection was taken to it at that time.

The Hon. F. R. H. Lavery: We are becoming more progressive.

The Hon. A. F. GRIFFITH: Mr. Logan has quoted some authorities on this matter; and I think the main point at issue is whether the Constitution will be changed if the Bill now before us is passed. If it is not changed, there is no necessity for us to pass the Bill with an absolute majority. In discussing this matter we must take notice of the whole of section 73 of the Constitution Act, because it says—

> The legislature of the Colony shall have full power and authority, from time to time, by any Act, to repeal or alter any of the provisions of this Act. Provided always, that it shall not be lawful to present to the Governor for Her Majesty's assent any Bill by which any change in the Constitution of the Legislative Council or of the Legislative Assembly shall be affected, unless the second and third readings of such Bill shall have been passed with the concurrence of an absolute majority of the whole number of the members for the time being of the Legislative Council and the Legislative Assembly respectively.

Mr. Deputy President, I submit, with respect, that to base your ruling this time upon the experience of last year is not correct, because the two matters, in my opinion, are entirely different; and I humbly disagree with your ruling.

The Hon. F. J. S. WISE: Mr. Deputy President, I appreciate your explanation and the research undertaken by you to supply the answer to my question as to whether this Bill is in order. I have listened with great interest to the arguments which have been used for and against your ruling.

It is true that in the Swan River Conservation Act, which was passed in this Chamber last year, the same sort of provision is included. But as I said, when speaking to the Bill the subject of this motion, I had some doubts about it when that Bill was passed; and I did not receive an extended legal opinion on the matter, but a confined one. And I still have doubts. But in this case, if there is a doubt, and in justice to any person likely to be affected, it is our responsibility to

remove that doubt. We are not in any way acting upon a hypothesis in this matter; we are not acting as if this Bill were in Committee and might be amended. That is quite beside the point. This Bill has been received here without a certificate—a certificate required by Standing Order No. 242, which is quite clear on the subject.

If we relate Standing Order No. 242 to section 73 of the Constitution Act and to sections 32 to 35 of the Constitution Acts Amendment Act, it is clear where the responsibility lies.

It is all very well for Mr. Griffith to state that it is a case of horses for courses, and that there has been a change of mind. It is a good thing to be able to change one's mind, even though I do not agree with Mark Twain who said that the reason a woman's mind is cleaner than a man's is that she changes it so often. That does not apply in this case. The points of view which I very much respect are those of Mr. Watson, particularly in regard to his statement that the alteration should be made to the Constitution Acts Amendment Act, or the Constitution itself. If we read all of section 73 of the Constitution Act, and relate it to Standing Order No. 242, we must read all of section 32 of the Constitution Acts Amendment Act. Having read those sections it is obvious, when one reads proposed new section 54 in the Bill, that a member would be leaving himself open to accepting an office of profit.

Section 32 of the Constitution Acts Amendment Act reads—

> Any person who shall directly or indirectly himself, or by any person whomsoever in trust for him, or for his use or benefit, or on his account, undertake, execute, hold, or enjoy in the whole or in part any contract, agreement, or commission made or entered into with, under, or from any person whomsoever, for or on account of the Government of the Colony . . . shall be disqualified from being a member of the Legislative Council or Legislative Assembly during the time he shall execute, hold, or enjoy any such contract, agreement, or commission.

Surely there is nothing hypothetical about that! There is nothing to allow this Bill to go to the Committee for the purpose of having the clause removed; because the Bill is not properly here. Therefore there is nothing in the contention that the clause can be removed by an amendment in Committee; because, even if the Bill is amended, it will still be out of order in all its proceedings through this Chamber.

The Hon. A. F. Griffith: When do you regard legislation as being here?

The Hon. F. J. S. WISE: The legislation is here when the message has been received.

The Hon. A. F. Griffith: Then this is here.

The Hon. F. J. S. WISE: A message not having been received with the requisite certificate, the Bill is improperly here; and, in the words of the Deputy President, it is out of order. I support your ruling, Mr. Deputy President.

The Hon J. G. HISLOP: I would like to make a small explanation regarding my own personal views on this matter. Last year the Bill dealing with the Cancer Council was passed with a similar provision to the one under discussion, and at that time I drew the attention of the department to the fact that I was unhappy that that provision should be allowed to remain in the Bill, because I did not think it was valid. I felt, despite the clause that was put in, that I, as a member, would find it very difficult; but in order that the work of the council could proceed I did not dispute the position. But I was not at all unhappy about it when, later this year, the new council was formed and the British Medical Association decided that it would probably be wiser to have on the council a second radiologist.

I felt much relieved, from the political point of view, because I thought my position was a good deal safer. Therefore, having doubts about that legislation, I still have my doubts about this Bill. If we are to alter the position in any way to allow a member of Parliament to accept any office of profit, no matter what it might be, I think we have to do it under the Constitution Act.

If I remember rightly, legislation was introduced to allow persons to continue with their outside vocations after they entered Parliament. That made it possible for me to resume work on workers' compensation cases after I entered this House. The day that I entered Parliament the Crown Solicitor of the time rang me and said that he wanted to warn me that I would be liable to lose my seat in this House if I received one case under the Workers' Compensation Act; and that in order to permit me to do such work the Constitution Act would have to be altered. Some years later that was done; and now it is possible for a member of Parliament, being a member of the medical profession, to do work under the Workers' Compensation Act. There are other members of Parliament similarly affected.

But only last year the Government introduced the idea of amending the Constitution Act by a clause contained in a Bill to amend another Act. I protested earlier this year against this loose type of legislation in which one Act is amended by writing a section into another Act.

I do not think we should continue such a practice, but should alter the Constitution Act. It is not right that the Constitution Act should be altered by a Bill which does not demand an absolute majority. I

quite agree that this Bill, if we regard it as changing the Constitution, is not properly before the House. Therefore I also agree that amending it along the lines suggested is not a practical solution, because Standing Order No. 242 states quite definitely that we shall not proceed with such a Bill; and so it cannot be regarded as being before the House.

I cannot agree with the Minister for Mines when he said that it must be of such a nature that it shall alter the Constitution; whereas he pretends this Bill may alter it. That could be so in the present situation; but let us take cognisance of the time when the individual who is appointed accepts remuneration; then, the "may" becomes "shall." That individual would, I think, be in very serious danger if he relied entirely on this measure. So, the mixing of "shalls" and "mays" will not help in this matter.

As I said before, I am very conscious of the looseness that is continuing with our legislation; and we must—if we have such a desire—guard the Constitution very carefully lest one of these days our actions are considered a precedent, and somebody brings up a simple measure to alter the boundaries and says it does not have anything to do with the Constitution of the Council; he may even wish to alter the number of members in this House. If we are to retain this Council and its members, then we must adhere strictly to the Constitution. Therefore, I agree with your ruling, Sir.

The Hon. A. R. JONES: I am only looking at clause 6 of the Bill and the proposed section 54 (a) which it contains; and, when the Minister says it does not affect the Constitution, I cannot for the life of me see why it does not. Mr. Watson said that if we are to make any alteration, then let us do it through the Constitution Act. I say, "Heaven forbid that we do that," because we would then have the position, I suggest, where many members of Parliament would be placed on boards and be given extra remuneration for the work they might be doing. That would be a retrograde step altogether. Having listened to the argument, and having read this provision with commonsense, I feel it would be wrong not to agree with your ruling, Sir; and, therefore, I must support your ruling.

The Hon. L. A. LOGAN (in reply): It is perhaps just as well, sometimes, that we have a graveyard for speeches, and for the reasons presented within those speeches, because I find on closer examination of the debate last year that Mr. Strickland used exactly the same terms as I did.

The Hon. F. R. H. Lavery: He probably had the same adviser.

The Hon. L. A. LOGAN: Mr. Loton also supported Mr. Strickland and Mr. Wise in that debate.

The Hon. A. L. Loton: I assisted.

The Hon. L. A. LOGAN: Now he says he assisted. If members change their minds I think we are at least entitled to know the reason why.

The Hon. H. C. Strickland: You changed yours.

The Hon. L. A. LOGAN: I have given my reason for doing so; I thought I was wrong.

The Hon. H. C. Strickland: I think I am right.

The Hon. L. A. LOGAN: If members refer to the debate that took place last year they will find that I based my argument on the two words "affect" or "effect"; and because the Constitution Act contained "affect" I proceeded to base my argument on that. I found since then that it was a misprint, and it should have been "effect"; which breaks down any opposition I had against the President's ruling.

The arguments I used are exactly the same as those used by Mr. Strickland. They are to be found on page 1569 of the *Hansard* of 1958, where the honourable member used the case of Taylor v. the Attorney-General of Queensland. He then referred to the interpretation of the word "composition"; and, further, to the "composition" and "makeup" of the House as given by Justices Gavan Duffy and Rich. He also used Macaulay v. the King.

The Hon. A. F. Griffith: He was helping me last year.

The Hon. L. A. LOGAN: Let us see what the Solicitor-General had to say then.

The Hon. H. C. Strickland: You support those.

The Hon. L. A. LOGAN: I should have done last year.

The Hon. H. C. Strickland: You would have been wrong then.

The Hon. L. A. LOGAN: I am honest enough to admit it, and I have given my reasons why.

The Hon. H. C. Strickland: Who are you kidding?

The Hon. L. A. LOGAN: I am not kidding anybody. This is what the Solicitor-General had to say, as quoted by Mr. Strickland—

> Whatever may be the correct meaning of the expression "change in the constitution," it is to be noted that the expression occurs only as a proviso to Section 73. The role of a proviso is merely to qualify, limit or provide an exception to, the general enactment in the section to which it is a proviso. Section 73 commences that the Legislature shall have full power and authority from time to time by any Act to repeal or alter any of the provisions of "this Act." The

proviso therefore probably applies only in relation to the repeal or alteration of any of the provisions of the Constitution Act, 1889, or its amendments.

I think we could go through the whole of the debate of last year and find that Mr. Strickland, Mr. Wise, and Mr. Heenan put up a case that I should have been putting up tonight for disagreeing with the Acting President's ruling; nothing more and nothing less. But I still go back to the first comment I made; namely, that in my opinion it is not making it mandatory to alter the Constitution Act.

An attempt was made by Mr. Strickland to by-pass it by putting emphasis on the wrong "shall." If members read it as it should be read, they will find that any Bill by which any change in the Constitution of the Legislative Council or the Legislative Assembly shall be effected requires an absolute majority on the second and third readings—that is where any change should be effected. I cannot read the word "shall" into this legislation. There is nothing mandatory about a member of Parliament accepting a position under this Bill. If he does, he does so voluntarily; because he does it voluntarily, and if this clause were still in the Act, he would have contracted out of it.

The Hon. A. F. Griffith: There is nothing in the Constitution Act, to make a member of Parliament accept his salary, either.

The Hon. L. A. LOGAN: So we come back to what I asked in the first place; namely, whether it shall effect a change. I contend it will not. I have given the reason why I have altered my opinion with reference to what was before the House last year. I have given reasons, Sir, why your ruling should be disagreed with, with all due despect to you.

I am sorry this has had to happen while you are acting in that position. I leave the matter to the House; it is for the House to decide. As Mr. Wise said last year, "Parliament at all times is master of its own decisions and destiny."

The Hon. A. F. Griffith: That is not altogether true.

The Hon. L. A. LOGAN: That is what Mr. Wise said last year; and he used the words for a purpose.

The Hon. A. F. Griffith: Subject to its actions being found in law to be correct.

The Hon. L. A. LOGAN: I think we could go further. This Bill has already been received by the Legislative Council. It was received by way of message; and the first and second readings have taken place. So the House has already received the Bill; and, therefore, I contend that, for the reasons given by members last year, it should be sufficient for the House to disagree with your ruling, Sir.

Question put and negatived.

BILLS (2)—RETURNED

1. Municipal Corporations Act Amendment.
2. Motor Vehicle (Third Party Insurance) Act and Traffic Act Amendments.

Without amendment.

BILLS (3)—THIRD READING

1. Filled Milk.

   Returned to the Assembly with Amendments.
2. Fire Brigades Act Amendment.

   Returned to the Assembly with an Amendment.
3. Railways Classification Board Act Amendment.

   Passed.

MAIN ROADS ACT (FUNDS APPROPRIATION) ACT AMENDMENT BILL

Second Reading

THE HON. A. F. GRIFFITH (Suburban —Minister for Mines) [5.45] in moving the second reading said: Small Bills of this nature are presented periodically to the House so as to validate certain action which has largely been brought about by the Commonwealth Grants Commission.

During the period from 1938 to 1940, the Commonwealth Grants Commission drew attention to the failure of Western Australia to bring its road finances into line with those of the non-claimant States, where provision had been made from revenue received from motor taxation as a contribution towards meeting the annual interest and sinking fund payments on loans which had been used on road works. The Commonwealth Grants Commission, in 1941, again examined the failure of Western Australia to make this provision; and, in this instance, actually penalised Western Australia with an unfavourable adjustment of £65,000.

In order to eliminate future similar penalties, the Western Australian Parliament in 1941 passed a measure providing for the transfer of funds from the Metropolitan Traffic Fund to Consolidated Revenue instead of to the Main Roads Contribution Trust Account. To replace the funds which had been diverted from the Main Roads Contribution Trust Account, it was provided that a similar sum should be transferred from the Main Roads Trust Account which consisted of moneys received from the Commonwealth under the Commonwealth Aid Roads Agreement. In 1950, further legislation was incorporated in the Main Roads (Funds Appropriation) Act of that year which limited the amount to be transferred to Consolidated Revenue to £70,000 per year.

These provisions have existed now for a period of 18 years, with the legislation being re-enacted at periods of five years.

As the Main Roads Act (Funds Appropriation) Act of 1955, which authorises the payment of these moneys, expires on the 31st December, 1959, it is necessary that the provisions of that Act should remain in force by passing this Bill, which provides for a further period of five years. I advise members that the whole of the money used will come from metropolitan license fees, and will not affect adversely the country road programme in any way. I move—

That the Bill be now read a second time.

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

TOURIST BILL

Second Reading

THE HON. A. F. GRIFFITH (Suburban —Minister for Mines) [5.48] in moving the second reading said: I am pleased to have the opportunity of introducing this Bill—perhaps more so than some of the other Bills—because this is a matter which interests me a great deal. During the course of last week-end I, as a representative of the Government, was fortunate enough to have the opportunity of attending at Albany the conference of the Country Tourist Bureaus. I listened to the deliberations of that conference and joined, to some extent, in the debate; but, of course, I was not entitled to have any vote. Mr. Thomson of this Chamber, and Mr. Hall, Assembly member for the district, were also at that conference. I am sure they will agree that the conference was indeed a very interesting one.

This is another Bill that seeks to implement a pre-election promise by members of the Government Parties. The intention of this Bill is the appointment of a statutory body, to be known as the Western Australian tourist development authority, whose responsibility will be in all matters pertaining to the promotion of tourist activity in Western Australia.

It is proposed that eight members shall be appointed to the authority. The Minister controlling tourist matters, or his nominee, would be one of these, and would be chairman of the authority. Of four other members, one each would be nominated by the Minister for Lands, the Minister for Works, the Minister controlling the Main Roads Department, and the Treasurer. Of the other three members, one would represent country local governing authorities, and two would be representatives of persons or organisations interested in the tourist trade.

It is considered that the Minister for Lands should be represented on the authority, as that Minister has many parks, reserves, etc., of tourist attraction under his jurisdiction. A representative of the Minister for Works is allowed for, as the Public Works Department may have much to do with construction and development of tourist areas outside the metropolitan district. Roads will take an integral part in the development in tourist areas, and so the Main Roads Department is represented on the authority. It is obvious that the advice of a Treasury officer would be of advantage, as the Government would be called on to find the funds to finance the authority.

It is proposed that country local authorities shall be represented on the body. It is not considered necessary that metropolitan local authorities should have specific representation, as the majority of places that would be developed for tourist interest would be outside the metropolitan area. While Perth and its environs may possess scenes of beauty and interest, these are mostly developed and permanent, and it does not seem necessary that the metropolitan area should be represented on the authority.

As was promised in pre-election speeches, the Bill is based on the Victorian legislation, in which no representation is made on the controlling body for the City of Melbourne. In regard to the two other positions on the authority, it is the intention of the Government to invite a nomination by the Royal Automobile Club, which has had much experience in providing advice to touring motorists, both its own members and visitors to the State.

The remaining member might be a nominee of the Perth Chamber of Commerce Tourist Promotion Committee, which has already obtained considerable experience in the sponsoring of tourist activity and, I believe, has collated a great deal of material in this connection. The nominee of the chamber would be representative of the business people who would be vitally affected by tourist activity, and he should be a vigorous and useful member of the authority.

The Bill proposes that each member of the authority would hold office for terms of five years, and that a quorum would be not less than half of the number of members at the time holding office. All decisions would be those of a majority present at the meeting, which means, of course, that a tie in voting would negative the particular question. No provision is made for a casting vote by the chairman. The authority would be a body corporate, capable of dealing in its corporate name with real and personal property, and authorised to undertake all lawful responsibilities of a body corporate.

The functions of the authority are detailed in clause 7 of the Bill. They are to recommend to the Minister steps that should be taken to publicise and develop tourist activities; to promote, assist and

co-ordinate activities of persons and organisations interested in tourist development; to investigate matters referred to it by the Minister, and to recommend expenditure out of the Tourist Fund to be established under the Bill.

This fund would be utilised to finance the publicising and development of the tourist industry, and, with the Minister's approval, to provide loans or grants for the establishment, construction, development, improvement, or maintenance of any works or facilities connected with the tourist trade. The Bill proposes that the fund will be financed by moneys appropriated from time to time by Parliament, and moneys advanced out of the General Loan Fund. No specific sum has been decided upon for the authority, and it is not the intention, at this stage, to provide any moneys from revenue or loan funds. If the legislation, now before another place, for the sale of State hotels is passed by Parliament, it is proposed to place in the tourist fund any proceeds from such sales.

Power is given by the Bill for the appointment by the Minister of sub-committees, either of his own volition or on the recommendation of the authority. Subject to the Minister's approval, the authority may delegate any of its powers to a sub-committee. Provision is made in the Bill for the making of regulations.

In discussing the Bill, I wish to make it quite clear that the Government has no illusions regarding the attractions that Western Australia has to offer tourists, nor concerning the difficulties and problems that may be encountered in endeavouring to increase tourist patronage. This is surely a matter in which we can only make haste slowly.

It cannot be said that, so far, we have been lavish as a State in our provision of funds for tourist activities. Successive Governments, no doubt, have felt that our many commitments have not permitted very much loosening of the purse-strings for tourist activities; and may I say now that, with the limited funds at its disposal, our Tourist Bureau has done a capable and creditable job. It is not its fault that we are not being very successful in attracting tourists to Western Australia. It is difficult to overcome the bar of great distances, but there is no reason why this State should not share in the swelling tourist traffic to Australia.

I might say here that at the last conference of the Returned Soldiers League, the question came up in regard to a road from East to West. I am confident, if that can be brought about, it will make Western Australia much closer to Eastern Australia.

The Hon. H. C. Strickland: As long as it goes up North there will be something to see.

The Hon. A. F. GRIFFITH: I appreciate the honourable member's interest in the North, and can assure him that he will see a considerable improvement in the North during the term of this Government.

The Hon. H. C. Strickland: You are dallying around at the moment.

The Hon. A. F. GRIFFITH: Things will go so fast that even the honourable member will not keep up with them.

The Hon. F. J. S. Wise: You mean you will kick up a lot of dust.

The Hon. A. F. GRIFFITH: In 1958 it was estimated that visitors from overseas spent more than £10,000,000 in Australia. Members can visualise what negligible proportion of that sum accrued to Western Australia. The Australian National Travel Association, an organisation representative of the Commonwealth, and all State Governments, and private enterprise, aims to increase this expenditure to £20,000,000 a year. In 1948, nearly 27,000 tourists visited Australia. In 1956, the year the Olympic Games were held in Melbourne, the total was over 56,000. We should do our utmost to attract these and other visitors to our State.

The authority visualised by this Bill should be able to provide practical advice and assistance in achieving this object. In Victoria, the representation is similar to that proposed in the Bill; and the Acting Minister for Tourists, who recently visited Western Australia, said that in the initial stages, their plan encountered many difficulties, but now they were making real progress, and the authority was considered a very valuable cog in the promotion of the tourist trade.

Last year, for the first time, the Commonwealth and all State Governments accepted representation on the Australian National Travel Association. Other members represent interests such as shipping, railways, hotels, airlines, travel agencies, commerce, and manufactures. Western Australia's contribution last year to the funds of the organisation was £750. The Commonwealth Government last year increased its contribution to £50,000, and promised an additional £50,000 if the association could obtain a similar subsidy from private sources. The association was able to claim the full extra £50,000 from the Commonwealth Government. I might say the association now has offices in America, Great Britain, and New Zealand. It is said that the international tourist trade increases at the rate of 7 per cent. per annum; and surely we can reap some benefit from what is becoming a world industry.

At the moment it would appear that we should concentrate on attracting tourists from the Eastern States. To assist in this, the Government is still investigating the possibility of State representation in Eastern States' capitals. This is a matter—if the Bill is agreed to—to which the

authority would give early attention. So far, unfortunately, difficulty has been experienced in obtaining suitable premises because of the very high rents asked.

There would be many problems ahead of the proposed authority, not the least of which is the quality and quantity of our hotel accommodation. But, as I said before, we can only make haste slowly; and I am sure the members of the new authority will be imbued with the importance of their responsibilities and that they will have the support of all members of this Parliament and other right-thinking Western Australians.

The selling of our tourist assets is a long-range job, but, as the Hon. L. F. Kelly wrote last year when he was Minister controlling the Tourist Bureau—"I have long been of the opinion that there is a great expanding future for tourism in this State, but advantage of this opportunity can only be taken if sufficient finance is available to advance the many avenues of attraction offering."

The Premier has taken this portfolio unto himself because of the interest that he shows in the matter. Out of the conference that took place at Albany last week-end—this was the third conference that the country bureaus had conducted —one predominant factor emerged, and that was that all the delegates welcomed the introduction of the legislation; they regarded it as something which would give great impetus to the tourist industry in their particular towns.

The members representing the more northerly parts of the State will be interested to know that the next conference is to be held at Geraldton; and apparently a different venue is to be chosen each year. I was glad to attend the conference at Albany, and to see the enthusiasm with which these people dealt with the various items on the agenda. They know how important it is to them to attract tourists to their towns.

It goes without saying that, to a large degree, industry and tourism go hand in hand. An industrialist who is looking for a suitable place in which to establish his industry will endeavour to find one which has the right sort of atmosphere and which, in addition, provides the conveniences of pleasure which go with employment. The representatives at the conference of tourist bureaus were conscious of that fact, and, in their bid to get industry for their particular towns, they took it into consideration; and I think it is one that should be taken into consideration.

We, in Western Australia, have really a great deal to offer. Our State has to be presented; advertised; and, perhaps, sold to the people who make inquiries about it, both in the Eastern States and overseas.

The Hon. E. M. Heenan: That is very true.

The Hon. A. F. GRIFFITH: Distance is being overcome more quickly now than ever in the past. Not many years ago a trip by air to the Eastern States took two or three days.

The Hon. J. M. Thomson: It is not measured in distance, but in time.

The Hon. F. J. S. Wise: You can now go to the moon overnight.

The Hon. A. F. GRIFFITH: Yes. If we can attract some moon people to come here, we will really have sold our State as a tourist attraction. I rather imagined I would get an interjection of that nature, seeing what the people we call "The Reds" have been able to achieve in the way of science.

The Hon. G. C. MacKinnon: I do not think Mr. Wise was serious when he suggested you should go to the moon.

The Hon. F. J. S. Wise: It is a stretch of the imagination to imagine that I would suggest such a thing.

The Hon. A. F. GRIFFITH: I am sure the honourable member would not suggest it. Having made these remarks, I move—

That the Bill be now read a second time.

On motion by the Hon. H. C. Strickland, debate adjourned.

MOTOR VEHICLE (THIRD PARTY INSURANCE) ACT AMENDMENT BILL

Second Reading

Debate resumed from the 8th September.

THE HON. E. M. HEENAN (North-East) [6.8]: I wish to make a few remarks in support of the Bill. Members will recall that the Act was first passed in 1943; and it might be of some interest if I were to read the long title, which is as follows:—

> An Act to require owners of motor vehicles to insure against liability in respect of deaths or bodily injuries caused by the use of such motor vehicles, to make certain provisions in relation to such insurance, to amend the Traffic Act, 1919-1941, and for other purposes.

Since the Act was assented to on the 12th November, 1943, a number of amendments have been made because over the years several weaknesses have made themselves apparent and have been corrected. I commend the Government for bringing down, on this occasion, a fairly comprehensive amending Bill. The Minister dealt concisely with the various provisions of the measure, and it is not my intention to recapitulate what he said.

Before proceeding with what I have to say in connection with certain clauses, it might be of interest for me to point out that Western Australia was the last of the Australian States to enact legislation

establishing a scheme of the kind we have come to know as third party motor vehicle insurance. Our being last had some advantages, because when our Act was originally framed it incorporated the best features of the Acts in the various states. In the main, I think, it followed the provisions of the South Australian Act.

It is as well to realise that the modern motorcar has enormously increased the power of one individual to do harm to another. Sometimes we do not fully realise how the advent of the motor car has transformed our way of life; nor do we always appreciate the implications that arise from the use of this vehicle which is capable of doing so much damage. So it is well to realise that the Act has for its principal function the compensation, in terms of money, of those unfortunate people who suffer injury through the neglect or default of some person in charge of a motor vehicle.

Later I hope to make a few suggestions which the Government might consider when reviewing the legislation further. I hope to be able to point out certain inadequacies in the present law, and to make a few suggestions which I trust the Minister will be good enough to give consideration to, and in his own good time, place before the proper authorities. Now I draw the attention of members to the fact that the Bill proposes to amend section 8; and I applaud this amendment entirely.

Sitting suspended from 6.15 to 7.30 p.m.

The Hon. E. M. HEENAN: Before tea, I was referring to section 8 of the Act, which has relation to uninsured motor vehicles. As members know, third party insurance is compulsory; but on occasions people drive uninsured vehicles on our roads, and we are aware of the fact that motor vehicles are frequently stolen. As the Act stands at present, a person who obtains judgment against the owner of an uninsured vehicle cannot recover from the trust until he goes through the formality of issuing a further writ against the trust and obtaining a further judgment.

As the Minister pointed out, that formality causes delay, inconvenience, and expense. It is an obvious weakness in the Act, and I applaud the move now being made to overcome it. If this measure is passed in its present form, it will be necessary only to issue a writ against the driver or owner of an uninsured vehicle. Judgment against that person having been obtained, the trust will be liable and responsible for payment; so that is a good amendment.

The Bill contains a further amendment to section 8, in order to relieve the owner of an uninsured vehicle from liability, if he can prove that the vehicle was driven without his knowledge or consent; and that, again, would be an improvement to this section.

A further amendment proposed is to section 11, and it is long overdue. At present, proceedings have to be instituted against the individual, who really is the nominal defendant. So if X is the driver of a car, and through his negligence he causes an accident, a writ is issued against him; and he then takes it along to the Motor Vehicle Insurance Trust and authorises it to handle the proceedings on his behalf; and from there on his role is more or less a nominal one. The necessity, however, to serve a writ on the individual, instead of delivering it to the trust or its lawyer in the first instance, causes a good deal of inconvenience, delay, and expense.

This amendment proposes to circumvent that state of affairs, making for much easier working of the preliminary legal steps which are essential in commencing an action. The Bill contains a few other proposed amendments, which were explained by the Minister; and, as I have already said, I do not intend to reiterate the details in that regard. The measure is a good one, as far as it goes, and I commend the proposals contained in it to the House. However, I am going to take this opportunity of pointing out what I think is a grave shortcoming in this legislation.

Members are aware that if the driver of a motor vehicle, through his negligence, causes injuries to third parties or passengers in the vehicle—and that can include his children—he is liable for damages. If any of those third parties are injured through the negligence of the driver, they can recover compensation in regard to their hospital expenses, medical expenses, pain and suffering, loss of wages, and permanent incapacity; and that is paid by the Motor Vehicle Insurance Trust, always provided that they can establish and, if necessary, prove in a court of law, that the driver of the motor vehicle was negligent, and caused them injury through that negligence.

A driver can have any number of passengers in his car, and he may drive negligently and perhaps turn it over and injure them; and he is liable, and the trust, as his insurer, to pay damages to those passengers. But, owing to the common law as it stands, if a man has his wife as a passenger, she cannot recover damages against him or against the trust. His child, or his lady friend who may be in the car, can obtain damages; but if his spouse is injured in that accident, she cannot claim damages. If his spouse is the driver and drives negligently, and through that negligence the husband is injured, he can get no compensation.

The Hon. F. J. S. Wise: The only protection there would be under a comprehensive policy.

The Hon. E. M. HEENAN: Yes; one could insure under a comprehensive policy. But my remarks are being directed to the

Motor Vehicle (Third Party Insurance) Act. There is some interesting comment in an article by Mr. Ross Parsons, B.A., LL.B., in a publication by the University of Western Australia, Law Review, dated December, 1955. The portion which is applicable to the point I am making reads—

> One spouse may not sue another in tort except where a wife sues for the protection or security of her separate property. Tort actions between members of a family other than a husband and wife are not precluded by our law. The reason generally offered to explain the exclusion of actions between spouses is that such are unseemly and may destroy the harmony which should obtain between man and wife. Many American courts offer similar justification for excluding actions between parent and child. But it could hardly be said that the ideal of family life is endangered when the defendant is covered by insurance. Indeed, the ideal of family life should rather lead us to abolish any immunities and then require insurance cover against intra family claims. The risk of encouraging collusion is the only purpose of any substance justifying the 1943 provision though, it must be admitted, it may not be quite unreal here to say that, where the victim is a passenger, he takes the risk of the financial irresponsibility of the driver. Since 1944 the insurance policy must cover intra family claims. But the common law tort rule excluding action between husband and wife is unaffected and the family exchequer is unprotected in the very situation where it stands most in need of protection.

To stress what I consider a grave weakness in our law, and one which is attracting consideration in other States of Australia and in other parts of the world, I reiterate that spouses are not covered under our law as it now stands. I may be driving, and have my wife and my child and three or four other passengers in the vehicle; and if I am careless and am involved in a serious collision, they can all be seriously injured and may spend months in hospital and perhaps be ruined for the rest of their lives; and they can all be compensated except the unfortunate wife.

The reason for this shortcoming in our law, as Mr. Parsons has pointed out, is that, in the past, before motorcars assumed the vital role they now play in civilisation, it was thought that it would be unseemly for wives to sue husbands and for husbands to sue wives in the matter of tort. There are other aspects of the law of tort, apart from motorcar claims.

Another feature of third party insurance which I stress is that the injured party always has to establish negligence. Members of the general public are under a misapprehension that, because a person is injured in a motor car accident, he becomes automatically eligible for compensation payable by the Motor Vehicle Insurance Trust. That is far from being the case. Compensation is awarded only in cases where the injured party can prove—or satisfy the trust or a court of law—that the driver of the vehicle was negligent.

Several cases have come to my notice where victims of motorcar accidents have received no compensation whatsoever. Here is a typical case. A man is crossing a busy street in Victoria Park about 8 p.m. He is perfectly sober; a good citizen, with all his senses normal. He steps off the pavement to cross the road, and a vehicle knocks him over. He suffers from concussion and is taken to Royal Perth Hospital where he lingers between life and death for a couple of months; and eventually he is discharged. The man does not know what happened, because, when one suffers from concussion, one has no recollection of the events immediately before or after the happening.

The driver of the motor vehicle tells the authorities that he was driving carefully; that he was driving at only 15 or 20 miles an hour; and that the pedestrian stepped in front of him. The unfortunate victim has then to lodge a claim with the Motor Vehicle Insurance Trust. The trust then says, "We deny liability; this accident was due to your own carelessness."

The victim has no recollection of what has happened, and two or three months elapse before he is able to do anything about his claim. In the meantime he has built up large hospital and medical bills; he is out of work; his wages have been stopped, and he is in extreme financial difficulties. In such circumstances a lawyer has a poor chance of obtaining a successful action for him. Such a case is no exaggeration; it typifies what happens to the victims of the many accidents that occur on our roads today.

A victim in a motor-car accident, however, can only succeed with his claim for compensation when he can prove negligence. I am not blaming the Motor Vehicle Insurance Trust. In my experience it handles most cases in a generous way. If there is any semblance of responsibility, the trust usually accepts it. I say that in all fairness to the trust. Nevertheless the trust cannot pay out money which is reposed in it under the terms of the Act, unless it is satisfied that the party driving the offending vehicle was negligent.

Sooner or later the time must arrive when we will have to accept an overall provision which will cover everyone who suffers injuries arising from motor vehicle accidents. I have known of many cases where the unfortunate victims have been

out of work for months. They have been seriously injured, and have no hope of paying either their hospital account or their medical expenses because the Motor Vehicle Insurance Trust denies all liability. Such a state of affairs does not represent justice.

When we consider this aspect of the law in the future we will, perhaps, have to broaden the ambit of the legislation in such a way as to ensure that all victims of motorcar accidents will be covered. A man does not rush out in front of a motorcar to become seriously injured merely for the purpose of being awarded compensation. Of course, if the law were amended to cover all victims, there would be the risk of collusion in some cases; but I do not think there are many people who would be willing to suffer injury to their persons for the sake of obtaining financial gain.

The Hon. A. R. Jones: Would not national insurance be the answer to the question?

The Hon. E. M. HEENAN: I must admit I have not the answer. I hope that in some way I have pointed to a weakness that exists in the law; and it is one which the community will have to face up to in the future in order to find a solution. Once again, I consider the Government has taken a wise step in bringing down a Bill to amend the Act; and I am sure, if the Bill is passed, the Act will function much better than it has done in the past.

THE HON. F. R. H. LAVERY (West) [7.55]: In supporting the Bill I reiterate what I said during the debate on the Address-in-reply; namely, that the trust should be empowered to pay hospitals', doctors' and other accounts, where liability is accepted, in order to protect hospitals, members of the medical profession, chemists, and tradesmen who have rendered service to an injured person, When I raised this matter at the time the Address-in-reply was being debated, I had the support of Mr. MacKinnon and other members.

I admit that what the Minister said when he replied to the debate on the Address-in-reply could apply to instances where normal circumstances prevail; but in those cases which are delayed for a considerable period, because of non-payment by the Motor Vehicle Insurance Trust, members of the medical profession, tradespeople, and others, are unable to finalise their accounts and complete their taxation returns. This occurs despite the fact that the trust has accepted responsibility for the payment of the services that have been rendered to the unfortunate victim.

I know that the information which the Minister conveyed to me by way of his reply to the Address-in-reply was supplied to him by his departmental officers; but it is not good enough. Mr. Heenan knows of a case in which I was interested, which involved a young girl who was hurt in a motorcar accident. After a period of two-and-a-half years, negotiations had reached the point of having a case heard before the court; but, only a few minutes before the court sat, a settlement was made out of court. Nevertheless, for two-and-a-half years that young girl had not only been receiving accounts from various people for expenses she had incurred, but had also been receiving threatening letters from debt collectors on behalf of the Perth Radiological Clinic and others who had rendered service to her. If the Motor Vehicle Insurance Trust had accepted responsibility in such a case, surely it could finalise the outstanding accounts that were involved.

If need be, when the Bill is considered in Committee, I will move an amendment to provide that where the trust has accepted liability for medical expenses, hospital expenses and the like, the accounts should be paid when presented. I admit that if a claim for damages is involved, it is a different matter, because that is a case for the court to decide.

When the Minister replied to the representation I made during the debate on the Address-in-reply, he implied that, until the case had been before the court, the Motor Vehicle Insurance Trust would not know to which party the damages would be paid. However, I was not referring to that aspect of the position, but to those cases in which the trust had admitted liability for the payment of hospital and medical expenses. In my opinion we should not wait another 12 months for something to be done to rectify such a position, but should act now while the Bill is before the House.

THE HON. J. G. HISLOP (Metropolitan) [7.59]: This is a most important measure because it seeks to do something to alleviate the problems of a person injured by a motorcar. It is indeed commendable that such an approach to the trust is being made. I do not want to reiterate all that has been said, but I want to touch on some of the points raised by Mr. Heenan.

A person who became unconscious or suffered from amnesia following an accident should be permitted to make a claim in court in respect of the injury, and he should be relieved of the necessity to prove negligence on the part of the driver, because he cannot say exactly what happened to him. Quite likely a person who suffers head injuries and becomes unconscious after a motor accident is unable to prove negligence on the part of the driver of the vehicle involved. That person should be permitted to establish a case for compensation on a different basis.

The cost of treatment of persons injured in motor accidents is considerable, and I do not know how it is proposed that this cost is to be met. The large number of beds in the hospitals occupied

by persons injured in motor accidents makes it difficult for the sick people to obtain treatment and hospitalisation.

How far should we go in overcoming the problem of meeting the cost of medical treatment? If we provide that every pedestrian should be insured against injury by motor vehicles, without the need to prove negligence on the part of the driver, we will add a further burden to the basic wage and to the income of every person. It looks as if the individual will have to insure himself before long—unless we agree to provide for the treatment and cost of hospitalisation of all persons injured in motor accidents.

Under our present mode of life, we are fast reaching the stage when the cost of insurance will be greater than our income. These days one has to insure against practically every eventuality; if not, one runs the risk of losing one's savings. It is not often realised that negligence can be proved against the owner of premises, the front steps of which are steep and are not fitted with railings. If a visitor should fall down those steps, and there is no railing, negligence can be proved against the owner; and, if the owner has no public risk policy, he will be liable for a considerable amount of damages.

People entering shops, warehouses or professional consulting rooms must be insured by the owner of the premises, so that in the event of an accident occurring and the injured person being able to prove negligence on the part of the owner, compensation will be paid. I wonder whether some day in the future people will have to take out a comprehensive policy to cover against all such eventualities. To compensate persons injured by a motor vehicle only when the drivers are negligible does not go far enough in these modern times; especially when the injured persons have no recollection of what happened. In all probability, in such instances, the injured persons would be unable to discover the identity of the drivers concerned until months afterwards. I know of cases where the relatives of injured persons searched for months for the identity of the drivers concerned. If the latter cannot be found, there is great difficulty in proving negligence.

The Bill goes a long way towards alleviating the position, but it would do no harm for the Law Society to discuss the question of the compensation payable to pedestrians, or occupants of motor vehicles, who become injured as a result of motor accidents and who are unable to prove negligence. In the workers' compensation legislation provision is made for some cases, but not for all. I have said on many occasions in this House that the Workers' Compensation Act covers minor injuries, but gives petty allowances for major ones.

I support this Bill as it is a real step forward. The Motor Vehicle Insurance Trust and the Law Society might well consider whether the provisions in the Bill can be expanded to cover all people who are injured by motor vehicles. I cannot imagine any person wishing to be struck by a motorcar with a view to receiving money by way of compensation, because the resultant injuries could be severe. A limb broken in three or four places is not likely to be a useful limb afterwards. It is not uncommon for young men injured in motorbike accidents to receive a double or treble fracture to a limb.

In this modern era of transport, compensation should be paid to people injured in motor accidents, other than by their having to prove negligence on the part of the driver. I referred earlier to the cost of maintaining such injured persons in hospitals for weeks and months at a time. If by some means the burden on the hospitals can be relieved, a major step will have been taken in the economic management of hospitals; and some real protection to injured persons will have been provided. I support the second reading.

THE HON. L. A. LOGAN (Midland—Minister for Local Government—in reply) [8.7]: I thank members for their contribution to this debate. It would be well to remind the House that the vehicle trust was never regarded as the sole protector of persons injured by motor vehicles. The interjection made by Mr. Jones was appropriate to the question of reaching the state of affairs outlined by Mr. Heenan. There is at present compulsory third party insurance to cover every third party involved. If we get to the stage of a compulsory third party comprehensive insurance for all vehicles, then everybody will be covered. That is the only way out, so far as I can see.

The Hon. L. C. Diver: That would be far cheaper.

The Hon. L. A. LOGAN: Probably so. Mr. Heenan raised the point that the spouse of the driver concerned could not sue for damages. On past occasions Mr. Heenan endeavoured to have the law amended to enable the spouse, injured as a result of negligence on the part of the driver, to claim compensation. If Parliament decides to enable an injured person to claim against the spouse, as a result of the latter's negligence in a motor accident, the trust will be quite prepared to meet compensation awarded. All that the trust does is to administer the Act. Parliament has to decide on the provisions to be included in the Act.

It is as well to point out to Mr. Heenan that nobody willingly desires to become injured, but collusion could take place between husband and wife in motor accident cases. There are cases where the husband has been negligent and the wife has been injured, and the husband has admitted negligence. That is where the Act can be affected. Because there was third party insurance taken out on the vehicle, the

husband could admit liability so that his wife could receive a monetary gain in the compensation that would be awarded. He could say that it was his fault, although the accident might have been an act of Providence; where the steering column or the drawbar came apart, and the driver could not have been accused of negligence. That is the main reason why the relevant portion in the Act has not been amended. I do not know whether the corresponding provision in any other State has been so amended.

I go so far as to say that that provision should not be amended. If we wish to depart from the common law, we should alter the Law Reform Act. That was the advice given to me. If an amendment was made to that Act, the trust would then be only too happy to administer the legislation on the altered basis.

I appreciate the point raised by Mr. Lavery in regard to the method of payment. That difficulty is not easy to overcome. It is as well that I should read from the file before me some comments relating to progress payments. These comments were made in reply to certain correspondence, and are as follows:—

> The substance of this correspondence is that the Trust is opposed to a general principle of progress payments. It is realised that there can be genuine cases of hardship and the Trust has made advances to assist claimants on numerous occasions. On other occasions advances by banks or employers have been guaranteed. It is the considered opinion of the Trust that many claims could be finalised by claimants much sooner than they are and if this was done the claimants would be relieved of a great deal of financial anxiety.
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> It will no doubt be alleged that the Trust is responsible for some delays in settlement and this is admitted, because in the large majority of these cases it is only when details of the claim are received that it is apparent the claim is exaggerated or even fraudulent and a detailed investigation must be commenced. We can only reiterate the Trust's opposition to a general principle of progress payments, but we are quite prepared, as in the past, to consider any case of hardship on its merits. In any case progress payments could only apply in certain instances. It is also interesting to note that of the several thousands of cases handled during the past nine years applications for assistance, either direct or through solicitors, have been negligible.

Therefore, the number of cases cited by Mr. Lavery are apparently not very many.

The Hon. F. R. H. Lavery: I think Mr. Heenan would disagree with you on that.

The Hon. L. A. LOGAN: I can only go on what the trust says; and it is the body administering the legislation. I think we could go further and say that until such time as guilt is proved, it is not known who is going to be the party that will pay.

The Hon. F. R. H. Lavery: The trust does.

The Hon. L. A. LOGAN: The trust does not pay in all cases. It only pays where negligence is proved.

The Hon. F. R. H. Lavery: I said, when an indication is given that it has accepted liability.

The Hon. L. A. LOGAN: If the honourable member can submit some cases where it has accepted the guilt and has been prepared to pay, I will investigate the situation and see what I can do. To raise the liability of the trust could, in time, have only one effect—an increase in the third party insurance amount.

The Hon. F. R. H. Lavery: What I suggested would not increase the liability.

The Hon. L. A. LOGAN: I am not talking about that.

The Hon. F. R. H. Lavery: I beg your pardon.

The Hon. L. A. LOGAN: There has been mention of covering everyone that it is possible to cover under this. In the 10 years since the inception of the trust there is not one of the companies which are partakers in this trust, which has received a penny piece out of it. I think I mentioned that before. Had there been sufficient profits, they could have got at least five per cent. Had there been a 20 per cent. loss they would have been liable for the loss. We find that one or two insurers have pulled out because there is no incentive for them to remain in it.

The estimated loss for last year was £90,235. Do not forget that the figures for the last seven years are only estimates; there are only three years actually completed, and they finished up with deficits of £64,290; £1,189; and £17,096. The estimated surpluses for the following six years were £65,976; £56,354; £58,469; £73,268; £93,839; £20,509; and an estimated deficit of £90,235 for last year. Therefore, actually over the last 10 years the estimated surplus was £368,415; and the actual plus the estimated deficit was £271,800. So it does not leave very much margin for making any further payments or providing further benefits.

The Hon. H. C. Strickland: Are the premiums likely to be increased in the near future.

The Hon. L. A. LOGAN: I do not know at the moment. We have not discussed an increase. I have not submitted any suggestions regarding it, and I hope we can manage without putting the premiums up.

The Hon. H. C. Strickland: I had in mind the big deficit for the past 12 months.

The Hon. L. A. LOGAN: Yes. Fortunately, of course, it might not be as bad as it is painted because, as a result of the lag in payments, we have been able to invest capital; and it is only the interest on that invested capital that is keeping us above water. If we were to take the position year by year without allowing for that interest, we would be showing a deficit every year. I again thank members for their approach to this Bill.

Question put and passed.

Bill read a second time.

In Committee

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

NURSES REGISTRATION ACT AMENDMENT BILL

In Committee

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

Clause 1 put and passed.

Clause 2—Section 3 amended:

The Hon. J. G. HISLOP: When discussing this clause during the second reading debate, I think the Minister undertook to see whether it would be possible to leave out certain words to make it mandatory for the department to write to these nurses and inform them that they were now registered as mental nurses. As the Bill stands, if they do not apply before a certain time, they will not be put on the registered list.

The Hon. L. A. LOGAN: I promised the honourable member that I would obtain the department's comments on this matter and they are as follows:—

> Dr. Hislop suggested that once issued with a training certificate mental nurses should be regarded as automatically registered under the Nurses Registration Act. He gave emphasis to this proposal by pointing out that when he passed an examination, he was automatically registered. I am advised that Dr. Hislop's memory must be playing him false as when he graduated in medicine, he had to apply for registration by the appropriate medical body—in this State the Medical Board—before he was allowed to practise medicine legally. My information is that the possession of a medical degree does not automatically confer the right to practise; registration must also be effected.
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> Registration of nurses in the various branches of nursing is the common practise in all Australian States, and in most parts of the British Commonwealth. Reciprocal agreements permit nurses in many Commonwealth countries and States to have their qualifications recognised outside of the territory administered by the authority from which they obtained their qualification.
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> The advantages and benefit of registration, both to the public and to the profession, are generally recognised. Medical and dental practitioners have to be registered in all civilised countries, and, in this State, several medical ancillary professions are registered, such as optometrists, physiotherapists and occupational therapists. In no case is registration automatically effected on qualification, and I am told there are reasons why it is preferable that this should not be so.
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> Many members of these professions obtain their qualifications outside the State. If registration was not compulsory, the situation would be chaotic and the field would be open to exploitation by people who could claim to be qualified but who did not have to prove their qualifications to any responsible body.
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> To be effective, registration must be uniformly applied. We cannot have different systems for the various categories of nurses. Some nurses hold several certificates. At present all certificates must be registered. If mental nurses alone were exempted from applying for registration, the inevitable outcome would be confusion.

Those are the comments of the Health Department. I think that if it is worth qualifying for a position, it is worth going to the trouble of applying for registration; and, while I admit there may be some merit in the honourable member's submission, I think that overall it might cause some confusion. Therefore, I hope he does not persevere with his proposed amendment.

The Hon. J. G. HISLOP: I admit I had to apply for registration upon qualifying. I would not have been allowed to practise unless I had done so. However, these nurses have been practising, and, through an oversight of the department—

The Hon. L. A. Logan: Their own oversight.

The Hon. J. G. HISLOP: —there is some mix-up about the whole business. These nurses have been permitted to practise without being registered; and now, after all these years, it is desired that they write in and make application for registration. I believe the onus should be taken off the nurses by deleting all words from "upon" in line 8 to the word "sixty" in line 12.

We are only dealing with those people who hold a certificate for mental nursing under the regulations made under the Lunacy Act. All I am asking is for mental

nurses who gain their certificates in the future to receive automatic registration, and for those who will probably be unaware of this amendment to the Act, to be written to by the department. I move an amendment—

> Page 2—Delete all words from and including the word "upon" in line 8 down to and including the word "sixty" in line 12.

The Hon. L. A. LOGAN: The reason I gave for introducing the Bill was that the previous amendment to the Act was made in 1944, and at that time the whole world was in a critical state. The Inspector-General for Mental Health was serving overseas, and the mental nursing and administrative staffs were at a low ebb numerically. As a result the amendment was misunderstood and misinterpreted. But the same set of circumstances does not apply today, and there is more chance of these nurses knowing what is going on. I presume they will be told, and therefore nobody is likely to miss out.

The Hon. F. J. S. Wise: That is an important thing. If they were notified it would be different.

The Hon. L. A. LOGAN: I do not see any reason why they cannot be notified, but I presume there is no register of those who are not mental nurses now. Some of these people might be anywhere; and what is the good of writing to a fellow who has probably not carried on with mental nursing for the last 15 years. People who have not done any training since 1944 should not be automatically entitled to registration.

The Hon. L. C. Diver: How about the married ones who wish to continue practising?

The Hon. L. A. LOGAN: I do not know what the Medical Department would say about this, but I am giving members my views.

The Hon. J. G. Hislop: If they were registered in 1944, and they left the job in 1945, they would still be registered.

The Hon. L. A. LOGAN: No; they have to re-register every year.

The Hon. J. G. Hislop: I should hope not.

The Hon. L. A. LOGAN: I do not see how the registration book could be kept up to date if they did not have to reapply.

The Hon. H. C. Strickland: What is the meaning of the words "who holds a certificate"?

The Hon. L. A. LOGAN: That is the certificate they hold after they have passed their examination.

The Hon. H. C. Strickland: Then there must be a register.

The Hon. L. A. LOGAN: That does not automatically register them. Dr. Hislop said that he passed his examinations, and then he got his certificate. But he could not go out and practise; he had to be registered first.

The Hon. J. G. Hislop: But you have allowed these people to practise.

The Hon. L. A. LOGAN: Some of them are still working as mental nurses; but I am perturbed about the fellow who has not been working all the way through, and who probably has not practised nursing for 15 years. I think it would be better if these people applied for registration, because then we would know where they were. I would prefer to leave the Bill as it stands.

The Hon. H. C. STRICKLAND: I think the amendment would improve the Bill. If we study the Bill closely we see that a qualified nurse is required to write in and then he shall be registered. What is wrong with all certified male nurses being registered without having to write to the department? Under the Bill as it stands the onus is put upon the registered male nurse, wherever he may be, to become aware of his position by a certain date; if he does not find out about the position by the end of December, 1960, if Dr. Hislop's amendment is not agreed to, he will not be registered. Therefore I agree with the amendment because I think a time limit is unnecessary.

The Hon. L. A. LOGAN: It is 15 years since male mental nurses were first registered. Maybe some of them do not want to be registered; but, if the amendment is agreed to, they will have to be registered because there will be no time limit. They will not have to apply for registration; they will be registered automatically. If we agree to the amendment moved by Dr. Hislop, we will be departing from a time-honoured custom in existence in Australia and throughout the rest of the world.

The Hon. H. C. Strickland: Surely they can resign if they do not want their names to be registered.

The Hon. L. A. LOGAN: Why should we try to change a time-honoured custom? I oppose the amendment.

The Hon. J. G. HISLOP: It looks as if the registration of these nurses is as lax as can be, because the Minister said that probably no-one knows where many of them are.

The Hon. L. A. Logan: I would not know where they were.

The Hon. J. G. HISLOP: The Minister implied that the department does not know where they are; and, apparently, the register is not kept up to date. Nursing is undertaken by women because, when they receive their certificates, it is a guarantee that they can return to their occupation if they fall upon evil days.

The Hon. H. C. Strickland: We are very fortunate to have them.

The Hon J. G. HISLOP: Of course we are.

The Hon. L. A. Logan: This does not apply only to females.

The Hon. A. F. Griffith: The certificate is evidence of their qualifications.

The Hon. J. G. HISLOP: I am emphasising the whole basis of nursing; and male nurses are a very small minority of the nursing field. The whole point is that these people have been allowed to practise without being registered, and now the department wants to put the onus on them, not knowing where they are, to register. I think it should be the responsibility of the department; and we should not put a time limit in the legislation and place the onus on the nurse to apply for registration.

Amendment put and passed.

The Hon. L. A. LOGAN: Despite the fact that the Committee has agreed to the amendment, I must point out that at present every nurse has to register each 12 months.

The Hon. L. C. Diver: No.

The Hon. L. A. LOGAN: All right; read the Act! Section 11 says—

> (1) Every registered nurse or enrolled nursing aide shall during the month of January in each year succeeding the year in which she was first registered or enrolled apply in the prescribed manner for re-registration or re-enrolment, and if any nurse or enrolled nursing aide fails to apply for re-registration or re-enrolment in each of two consecutive years her name shall be erased from the register.
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> (2) A fee of one shilling shall be payable for re-registration or re-enrolment.

The Hon. F. J. S. Wise: That does not debar her.

The Hon. G. C. MacKinnon: Does that apply to every sort of nurse?

The Hon. L. A. LOGAN: We are talking about the principle.

The Hon. F. J. S. Wise: You are suggesting that once they do not enrol for two years they are out. That is not true.

The Hon. L. A. LOGAN: That is what the Act says. We cannot get away from the Act.

The Hon. J. G. Hislop: Once a nurse, always a nurse.

The Hon. L. A. LOGAN: Then why is that in the Act? I have two daughters in the nursing profession, and the one who has a certificate has to apply every year for re-registration. By agreeing to the amendment we are getting away from something which has been a time-honoured custom for years. I am not going to argue the point about it any further.

The Hon. L. C. DIVER: I would like to say that I checked the position with a nurse. She informed me that nurses are supposed to register and pay a fee of 1s.; but that it did not matter if a nurse failed to register for three or four years, because she could take her 3s. or 4s. fee and still be a registered nurse.

Clause, as amended, put and passed.

Title put and passed.

Bill reported with an amendment.

HEALTH ACT AMENDMENT BILL

Second Reading

Debate resumed from the 9th September.

THE HON J. M. THOMSON (South) [8.47]: Because this Bill will enable a number of country schools to install a septic tank system, I wholeheartedly support it. In doing so, I call to mind what appeared in the *Weekend Mail* last year with reference to the disposal of the night soil from the pan systems in the country schools.

This measure will enable local authorities to raise loans which will be repaid by the Government over a period of 15 years. We know that because of the inadequacy of the water supply, the Government has been prevented from building septic tank installations in a number of country schools; but in recent years these places have been provided with an adequate water supply which will now enable them to install a sewerage system in their schools. In one school that was recently completed in a large country town, the lavatory block was placed alongside the classroom; and because it was not possible to provide a septic tank installation, the pan system was installed. Members can well imagine the justifiable hue and cry from the parents of the children attending that school, and the continued appeal for sewerage.

My personal experience has been that it is most unhealthy to have a pan system in operation close to classrooms which are in use; no matter how particular the users may be. The school to which I refer—the Spencer Park School—was opened last year and was modern in every way except with reference to its sanitation.

The Hon. A. F. Griffith: It also lacks electricity.

The Hon. J. M. THOMSON: That is so. We have been endeavouring for some time to get electricity for that school, and we hope that before long we will succeed.

The Hon. A. F. Griffith: The Housing Commission will help you by building three or four houses in that area.

The Hon. J. M. THOMSON: I am very glad to hear that. As members know, this matter of sanitation is one that has been represented to the Minister for Education on a number of occasions by the federated

body of the parents and citizens' associations of Perth and the country districts; they have sought a remedy for a very long time. The Bill will enable the Government to proceed with the installation of this essential facility, the need for which everybody will appreciate. I hope the Bill will have a speedy and successful passage.

THE HON. G. C. MacKINNON (South-West) [8.50]: May I take this opportunity to congratulate the Government on the speedy and sensible approach it has made to this matter of solving a problem that has existed at least since I have been in Parliament. I think septic tank installation was the first thing I was asked to investigate. One aspect that this legislation will correct is the spectacle of the local school being, in many cases, the only town building which has been contravening the local health regulations. Other buildings have been compelled to install septic tank systems; but, because of the unique position of the Education Department, it has not been compelled to install the proper facilities in its schools.

The Hon. L. C. Diver: Even the churches have been forced to do so.

The Hon. G. C. MacKINNON: That is so. As I said in the first year I was here, we are trying to teach the children hygiene on the one hand; and yet, on the other, the school at which they learn is the only place which has an unhygienic method of sewage disposal. I congratulate the Government on its rapid and commonsense approach to this problem.

THE HON. W. F. WILLESEE (North) [8.52]: This Bill deals with the installation of septic facilities at non-sewered Government schools. This has been a very serious matter in many places for a long time. Today there are approximately 40 schools in Western Australia which have to make arrangements for the disposal of their sewage either directly, by the headmaster, or with the assistance of the pupils. The Education Department has been aware of this problem. It has been uppermost in the department's mind for many years; but during the period following the second world war, the need for classrooms has been predominant to such an extent that the sanitation issue has taken second place.

The Bill seeks to provide that the Health Act, as applicable to local authorities being able to finance septic systems within the area of the local authority, shall be applied to Government premises within such local authority's area. There are at present approximately 220 Government schools in Western Australia which make direct use of the pan system, and it is envisaged in this Bill that about 100 schools will have immediate relief and the remaining 120, for a variety of reasons, due to their locality, would not come within the orbit of immediate success; but there is no reason why, as time progresses, they should not come within this most simple scheme.

The Government, obviously not able to finance fully the requirements of the Education Department in all respects, seeks what I think is a most admirable method to alleviate the problem of septic tank installation by making applicable section 100 (2) of the Health Act. The Bill does highlight the value of local authorities when used in conjunction with the administration of Governments; and the Government in those circumstances stands to gain, because it will be relieved of costly pan installation services; and such money would constitute some capital repayment of the scheme undertaken by the local authorities on the Government's behalf. Where it is applicable, I trust the local authorities will make every effort to fall in with the wishes of the Government in this matter, and I hope the Bill will prove completely successful. I support the measure.

THE HON. E. M. DAVIES (West) [8.57]: I support the Bill. It seeks to finance the bacteriological treatment of sanitary soil, and to do away with the old-fashioned system of treating night soil by the earth-closet method. The provisions of the measure will be beneficial, particularly to schools in the country districts, and it will also help to teach children the essential principles of hygiene. Apart from that, it will assist in doing away with the fly menace, and the transference of various diseases.

The amendment to the Health Act provides the ways and means of raising finance to enable the Government to have this work done. As Mr. Willesee has pointed out, this matter has been handed over to local authorities. Local government, as everybody knows, is carried on by people who are interested in the place in which they live. They do voluntary work. I have no doubt they will be only too pleased to be associated with the project to which this Bill endeavours to give authority.

Without criticising the means of raising the finance, I would like to point out that when local authorities endeavour to raise loans they must first obtain the authority of the Treasury. The loan programme must be submitted by each local authority to the Treasury each year after that loan programme has been adopted by members of that local authority. There are occasions when the amount asked for by the local authority is not agreed to by the Treasury. The local authorities are granted a quota according to the amount of loan money available to the State. In some cases local authorities have a fairly large loan programme, and I would like an explanation from the Minister as to whether this means that some of the works of the

local authorities will have to be delayed because of the necessity to raise several loans for the purpose set out in the Bill.

I support the second reading, as I consider it is a good idea to utilise the septic system, for which provision is made in the amending legislation. However, I think we should give some consideration to whether it is going to affect the loan quota of the local authority in whose area this work will be done.

THE HON. J. D. TEAHAN (North-East) [9.1]: In the North-East Province there are quite a few country centres that have been pressing for some time for septic tank systems such as are proposed in this Bill. I am referring to such places as Menzies, Leonora, Laverton, Sandstone, and Cue. The parents and citizens' associations in these centres have complained of the high incidence of trachoma, which is traceable in a degree to the pan system, as flies carry the disease from place to place. The people have endeavoured to overcome this menace by fly-netting doors to make them fly-proof, but this has only been a palliative. Therefore, this measure will certainly be welcomed.

I consider the means of raising the finance to be quite just, and I commend the Government for introducing the measure. Menzies has plenty of water; Leonora has sufficient; it is in abundance at Sandstone; and Cue has water also. As mentioned by Mr. Willesee, they would be the places where it is most likely the septic tank systems would be installed. I support the second reading.

THE HON. J. G. HISLOP (Metropolitan) [9.2]: I, like others who have spoken, appreciate the action of the Government in making this measure possible. I do not want actually to refer to this particular Bill in detail at the moment, but rather to stress the implication of the measure. It seems to me that before a school is built or a classroom is added, there should be inter-departmental co-operation. It is most extraordinary that a school can be built without such co-operation.

Surely, if the Health Department lays down that certain facilities are needed for the children who will be attending a classroom, those facilities should be provided! It is a totally inadequate arrangement to suggest that bricks and mortar can be put together, yet no arrangements made for the other facilities and amenities that are required.

I say there seems to be a lack of co-ordination for this reason: I had a most extraordinary incident occur to me in 1957, when I was approached by the parents and citizens' association of a metropolitan school. The school is just on the boundary of my province. These people stated that they could not do anything in the way of having evening meetings of their association, and they could not do anything for the children in the school in the evening because there was not any electricity connected to the school.

The Hon. R. C. Mattiske: Or school broadcasts.

The Hon. J. G. HISLOP: Nothing could be carried out at the school which depended on electricity. I know quite well that all around the metropolitan area there are schools with insufficient toilet arrangements; yet apparently the Health Department would ask for toilet arrangements to be installed in schools and the Education Department would say it could not afford them. In the instance to which I refer, there was the curious example of a school being purposely built with no electricity provided. Surely, when a school is built, there should be inter-departmental co-ordination so that all facilities for the school can be provided! No authority would allow me to build a block of flats and fail to provide electricity and toilet requisites! Yet apparently the Government can build a school and leave out some of the essentials which should be provided by some other department.

To show how futile this sort of thing is, the people who approached me in connection with the school to which I have just referred were apparently told by their local member that each coming month would see the electricity connected to the school. Months and months went by; and they became so tired that, instead of re-approaching their local member, they came to me. I immediately rang the State Electricity Commission and obtained the information that it had no intention of putting electricity on to that school because there was such an amount of vacant land between the last profitable point and the school; and the school would have to wait until such time as houses were built along the approaching road.

I could not see that many houses would be built along the approaching road for some considerable time. Therefore, I wrote to the Premier of that time—Mr. Hawke—pointing out the situation to him, and stating that there was some lack of co-ordination. The electricity was connected to that school in a matter of weeks. In the building of that school there was no co-ordination between departments at all. To me, this Bill emphasises the need for an overall plan when a school or some other institution is built so as to ensure that all requisites are provided. I have considerable pleasure in supporting the second reading.

THE HON. L. A. LOGAN (Midland—Minister for Local Government—in reply) [9.8]: I agree with Dr. Hislop in regard to the lack of co-operation between departments. If members cast their minds back a few weeks, they will recall that, during the construction of the new part of Parliament House, the bituminising of the road in front was completed one day, and then

the next day a hole was put through the middle in order to place a pipe underneath. That is an example of the lack of co-operation that exists between departments. It has apparently been going on for ever and anon.

The point raised by Mr. Davies is covered in the Bill. We made sure that the loan-raising powers of the local authorities would not be affected by any loans they may raise for the purposes of this measure. As Mr. Willesee said, there are some 200 or 220 schools in Western Australia still on the pan system. Whilst it may be said that we are passing the buck, I think that, even if we are, we have found the answer to a problem, which successive Governments failed to do. I would inform Mr. Davies that we are pleased with the reaction of local authorities to this proposal.

After all is said and done, the installation of these septic systems will not cost local authorities anything. The Government will even pay for the advertising of the loan. That will be part and parcel of the cost to the Government in the repayment. We are just using the loan-raising powers of the local authorities to enable the Government to get on with the job, and I think everyone is happy that at last some progreses is being made. We know it will be a good many years before all schools can be converted; because once those that have a satisfactory water supply at the moment are connected, we will have to find ways and means of providing an adequate water supply for other schools. That may take some time.

This year only £50,000 was provided by the Loan Council, so we are limited at the moment in regard to the amount of money that can be raised through local authorities. Next year the amount will be stepped up so that we shall be able to meet all demands that may be made upon us.

It will be the responsibility of the Government to provide septic tank installations in new buildings and new schools. That is how it should be. Where there is a change-over from the pan system to septic tank installations, we will use money obtained under the local authorities' loan-raising powers and repay it over a period of 15 years.

Question put and passed.

Bill read a second time.

In Committee

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

LAND AGENTS ACT AMENDMENT BILL

Second Reading

Debate resumed from the 9th September.

THE HON. G. E. JEFFERY (Suburban) [9.13]: It is not my desire to keep the House in suspense for a great period of time before I state my intention. I want to be like Marc Antony on the occasion when Cleopatra asked him his intentions and he replied that he had not come to make a speech. I intend to support the measure. The main provision of this Bill is to allow the Land Agents Supervisory Committee to apply for an order to freeze the trust accounts of land agents.

This has been brought about by the activities of a certain land agent who took advantage of a loophole in the existing law. We have the position where somebody more fortunate perhaps than other people who might be doing business with a certain land agent, gets wind of the true position and takes out an injunction to restrain the operation of the trust account. The weakness is that the land agent in question, once he has met the requirements of the injunction, and the injunction is lifted, can go on his merry way and eat into the trust funds in the same way that a carpet-snake may consume mice in a barn.

The Hon. H. K. Watson: What way is that?

The Hon. G. E. JEFFERY: The inference is that if one or more people are lucky enough to know the true circumstances, and their requirements have been met, the injunction is lifted and the other poor devils are left wanting.

When I made some research into the question, it amazed me to learn that the moneys in a land agent's trust account, even if he is declared bankrupt, cannot be touched by the Official Receiver. The result is most unsatisfactory, as the Minister said when introducing the Bill, to the individual whose funds are in the trust account.

The measure is a timely one. Most land agents are scrupulously honest, but unfortunately the occasion crops up when an amendment is required to the law of the land, and this is one of those occasions. We have had some bitter experiences recently of default by unscrupulous agents. That is to be expected because of the post-war circumstances and the terrific volume of business in land and property. Because of the volume of business, it is much easier, perhaps, for these people to batten on an unsuspecting public; because the average individual probably buys only one block of land or one home—perhaps two—in a lifetime. He does not normally do a great deal of business with land agents, and therefore he is a much easier prey than he is to other lines of business.

The Land Agents' Supervisory Committee, which at present does the auditing of land agents' books, would be the first, in many cases, to realise that something was wrong with a land agent's trust account. As a result of the provision in the Bill, the committee can now apply, with a sworn affidavit, to a judge of the Supreme Court; and if the case is a good one, the

judge will agree to freeze the trust funds; and in such a manner that, in the first instance, the land agent will not be aware of it. It is obvious that if he were forewarned, he would probably go on with more and more juggling of his accounts. So that is a fair proposition. If he meets the requirements of the court, the order is not made absolute.

The Bill contains a provision to indemnify the bank. This is most necessary. If the judge is going to issue an instruction to say that the account is not to be operated on, the bank must be protected. That is only a machinery clause.

Another provision allows the committee to authorise its agent in writing to apply to the bank for, and to take away, a copy of the business transactions of the individual concerned. It also protects the land agent; he will have similar rights to those of the committee. He will be able to apply for a lifting of the injunction at the appropriate time.

There is a weakness in the Act. Many people want to know why, if the supervisory committee is doing the job it should do, these circumstances arise. Frankly, I believe that the land agent's bond of £2,000 is quite inadequate; it should be on a sliding scale. It could possibly be worked out on a percentage of the previous year's turnover. Some land agents deal in thousands of pounds worth of business per month—in isolated cases perhaps hundreds of thousands of pounds or even a million per year—and a bond of £2,000 is not, in those circumstances, a large one. I realise this is a knotty problem, and is one for another occasion.

The Bill deserves the support of the House. We have seen instances in the Press of people who have been unsuspectingly caught by unscrupulous agents. The tragedy in most cases is that small people are concerned; their life savings have been put into the purchase of a home; or, having sold a property, they expect to receive the money for it in order to purchase a smaller home on retirement; but they find that through the activities of the agent, in whom they had so much faith, their money has disappeared.

When these agents get into trouble, their affairs are usually in such a tangled mess that it is difficult to say whose money is in the account. I am pleased to say that the Bill provides that not only the trust account, but any other account in the name of the agent can be frozen. A judge of the Supreme Court can instruct the Treasurer on the method of disbursement in proportion to the amount that is left; similar to the declaration of a dividend in a bankruptcy case. All in all, the Bill is a good one, and I support it and recommend it to the House.

THE HON. R. C. MATTISKE (Metropolitan) [9.21]: I support the measure because it is one that is necessary to enable certain repair work to be done after a dishonest or defaulting agent has caused damage. At the same time, however, I am disappointed that the Bill does not include provision for much greater stringency in the registering of land agents. If greater caution were exercised in licensing them, a lot of the trouble that has occurred could possibly have been avoided.

I have it on the authority of the Real Estate Institute of Western Australia—any person is entitled to membership provided he has served at least two years as a real estate man; is of proven integrity; and can prove that he is competent in his work—that during the past 30 years there has not been a defalcation case in which a member of the institute has been a party.

Despite the fact that the members of the institute do by far the bulk of the real estate transactions in the State, they have not had any defalcations at all, whereas those doing the minority of the work are the ones who have been indulging in all the dishonest practices.

Knowing from the members of the institute that they would welcome a tightening up of the conditions of registration, I fear this question is one which should exercise the attention of the Government. Authority should be given, not only after a person is first registered, but from time to time, to review a person's registration if there are doubts as to his competency, or as to the manner in which he is conducting his business.

I therefore hope that the Minister concerned will, in the near future, give this aspect serious consideration; because I feel it is far better to prevent damage being done in the first instance than to try to repair it after many persons have been injured; and it is usually the person with comparatively small savings, and who is investing on the advice of the particular agent, who is bitten—if I may use that word.

The person who normally indulges in real estate transactions to any extent, knows what he is about; he knows the pitfalls and what to look for. Consequently he can avoid much that another person is not able to avoid. It is the poor unfortunate, with a comparatively small amount to invest, who suffers through dishonesty in this profession. I trust that consideration will be given to the aspects I have mentioned; and that it will be given in the very near future.

THE HON. J. D. TEAHAN (North-East) [9.25]: Over past years there has been a bit of tinkering with the Land Agents Act. The measure will bring about an improvement on the present position, but it does not cover a great deal. The main provision in the Bill is that the trust funds can be frozen. But by the time a defaulter has been brought under notice, there would not

be much to freeze. As a previous speaker said, the bond of £2,000 is not much considering the transactions these people handle.

There is a golden rule when dealing in any business or commodity, and that is to deal only with those in established businesses or who have established their names. Unfortunately, those who have been victims of these unscrupulous agents are youthful persons who have, perhaps, made their first purchase of a home, and are not wise to the vagaries of the law; or they have been older persons, but the deal might be only their first or second one.

In the last few years quite a number of people—and those who could least afford it—have landed into trouble. I call to mind a pensioner in the country who sold a cottage and received about £1,500 for it. He then purchased another one nearer the city, from a person in similar circumstances to his own. The agent defaulted; and, in the litigation that followed, the question was which of the two pensioners —the one in the country or the one in the city—was to suffer. It appeared that the bond was not nearly sufficient. It looks as though what Mr. Mattiske said is correct; that some of these people are not examined sufficiently, and the registration is a bit too easy.

There is provision for an audit of the trust account to be made only once a year. Of course, a lot can happen in 12 months; a defaulter may have nothing to audit when the auditors arrive. Whilst it will help in some directions to freeze the funds, the freezing of the funds will not cover every position.

It is a pity there is not a provision such as obtains in another line of business, whereby there could be a pool of the agents so that if one defaulted, the pool would be responsible. Such a provision would have this advantage that the land agents themselves would almost police the provisions of the Act, and the general conduct of agents; and the likelihood of default would be brought under notice more quickly. I have an idea that the agents generally know who are falling on lean days, or who are not keeping their trust accounts as square as they should do. If such a provision as I have mentioned were included, then a possible defaulter would be brought under notice more quickly than otherwise.

It is a known fact that when a person is endeavouring to deal in property, attractive advertisements sometimes take his notice; and it is thought that the agent who advertises very well and largely is, perhaps, the one who is the most stable. But it is generally the other way around; the one who advertises largely and loudly, is the one to be watched. Those remarks apply to one of the defaulters in the last 12 months. On the surface, the agency appeared to be quite a sound one to deal with, but it was just a shell. I commend the measure and support the second reading; although I wish it had gone further.

On motion by the Hon. H. K. Watson, debate adjourned.

INDUSTRY (ADVANCES) ACT AMENDMENT BILL

Second Reading

Debate resumed from the 9th September.

THE HON. R. C. MATTISKE (Metropolitan) [9.30]: I intend to support this measure; but I cast my mind back to the end of last session, when a measure was introduced by the previous Government for the purpose of ratifying an arrangement in connection with the construction of Canterbury Court—an arrangement then necessary because the Government apparently found, on the advice of an outside solicitor, that its negotiations at that stage were not legally in order.

I spoke in favour of that Bill, and placed on the notice paper certain amendments the effect of which would have been similar to that of the measure now before us. I deplored the fact that the Government had, on more than one occasion, taken certain steps and had then found they required parliamentary sanction; and had come along to Parliament to apply a rubber stamp, as it were. I sincerely hope the present Government will not indulge in such practices, and that any steps taken will be thoroughly examined beforehand; and if any submission to Parliament is necessary, I hope it will be made before initial action is taken in any way to involve the Government.

In common with other speakers, I cannot quite see the necessity for amending the long title of the Bill in the manner proposed. The only justification I can see for it is that it is a legal point because of the very nature of this amendment to ratify the Canterbury Court arrangement. If it is intended to go beyond that, I feel that is a matter that will require careful consideration in the Committee stage; because the whole purport of the Bill is to provide, as the name of the Bill implies, financial assistance to industry.

By "industry" we mean pure industry, and not simply building activities. I therefore hope that, when replying to the debate, the Minister will enlighten us on that aspect. Other than that, I support the Bill.

THE HON. J. M. THOMSON (South) [9.35]: I do not feel very happy about the Bill, in view of the alteration of the long title, as mentioned by Mr. Mattiske. According to clause 3, the Bill is designed to give financial assistance to Canterbury Court Pty. Ltd., and the intention is clear in that portion of the Bill—

The Hon. A. F. Griffith: The long title is not an operative part of the Bill.

The Hon. J. M. THOMSON: Section 4 of the principal Act states that where the Treasurer issues a certificate, it is conclusive evidence, and so on. If we pass the Bill in its present form and amend the long title of the Act—

The Hon. A. F. Griffith: I will endeavour to give an explanation of that, when replying. I am sorry to have interrupted.

The Hon. J. M. THOMSON: I think the interpretation of the word "industry" in the Rural and Industries Bank Act is what was intended when the two Acts were incorporated; and I cannot see that a building is a marketable product or thing. Because of the dangers I see in this Bill, I cannot support it. The measure sets out the deal with Canterbury Court; but I am not happy about the amendment—the addition of the words "or in a particular building activity"—to the long title, and for that reason I must oppose the measure.

THE HON. A. F. GRIFFITH (Suburban —Minister for Mines—in reply) [9.38]: I believe most of the opposition to this Bill —and particularly that by the previous two speakers to the debate—has been in connection with the long title of the measure. Mr. Thomson gave us an indication when he referred to the words "or in a particular building industry." I will endeavour to point out to members that those words, when read into the Bill, would bring about the position that, when this particular industry is finished with, any other Government or Minister desiring to help another particular industry, would have to introduce a Bill for that purpose.

I have now some more detailed information on that subject. I wish first to deal with some of the comments of Mr. Wise, when speaking to the debate on the second reading. I am pleased that, generally speaking, members have indicated their support of the Bill. Mr. Wise expressed great surprise at my being responsible for the introduction of this Bill into the House. Let me, in turn, express surprise at the terms in which the honourable member expressed himself when speaking to the debate.

As a member of the previous Government, Mr. Wise will know full well that his Leader, the then Premier, approached the Leader of my Party and the Leader of the Country Party, and asked for their support in the introduction of this Bill which is now before us. The Leader of the Liberal and Country League, and the Leader of the Country Party, advised Mr. Hawke by letter, at that time, that the majority of each of their Parties had agreed to his request. Mr. Brand also told Mr. Hawke that in the event of a change of Government, he would be prepared to introduce the Bill, provided that his Country Party colleagues agreed; and provided he could rely on the support of the Labor Party.

In order that members may see for themselves what was in the last paragraph of the letter which the then Leader of the Opposition—the present Premier—wrote to Mr. Hawke, under date the 4th March, 1959—prior to the election—I will read it out. It is as follows:—

> I would remind you, however, that a great deal of anxiety would have been saved had the Opposition's amendment in the Assembly aimed at validating the present transaction been accepted by your Government.

Members will recall that at that time a validating clause was placed in the Bill; and the Bill was not proceeded with by the Government of that day. Mr. Watts, the Leader of the Country Party, wrote accordingly to the then Premier, telling him that the majority of members of his Party would support this Bill. I want to make it known, quite definitely, that neither of the present Government Parties has any enthusiasm for the proposition contained in this Bill. We have no enthusiasm for it; and when in Opposition we agreed, in a majority decision, to support the introduction of the measure because it was felt that we had been presented with a *fait accompli;* and to help extricate the then Government from the position into which it had got itself we agreed that, if we became the Government, we would introduce this Bill; and that if we did not become the Government we would support it, if reintroduced by the Hawke Government.

I might say that the Prudential Assurance Company's proposition did not excite Mr. Hawke at all; because when the proposal was brought to his notice in February, 1958, he expressed himself in these words—

> The faith and courage of the Prudential Assurance Co. in connection with this proposal almost overwhelm me; particularly their willingness to advance £250,000 provided the Government guarantees them against any loss which they may incur.

So it is obvious that in February, 1958, the then Premier had no illusions about the matter, and did not welcome with open arms the fact that the Government was obliged to give this guarantee.

The Hon. H. K. Watson: What prompted him to go on, in view of that statement?

The Hon. A. F. GRIFFITH: I think it was because of further negotiations which, to say the least of them, took place on another basis; and the matter was dealt with by the then Government on the basis of reconsidering the first proposition put forward. Perhaps, in order not to implicate or embarrass anybody, it would be fair to let that part go; having said that much. I do not blame members for giving support grudgingly to this legislation, and I hope that the circumstances surrounding this matter will not recur.

Turning to the speech made by Mr. Wise, he said that the Premier, in another place, had produced different figures from those I had mentioned when introducing the Bill in this House. He said that I gave the expenditure incurred by the contractor as being £14,000, while the Premier mentioned an amount of £40,000. Mr. Wise said that such a discrepancy was very important.

I can assure the honourable member that the Premier and I were both correct. In explaining the provisions of the Bill I said that, apart from other commitments, the contractor had imported a £14,000 remote-control crane to carry on the work—members can see the crane from almost any position in Perth—and to expedite the completion of the building. The Premier said the contractor had involved himself in an amount of £40,000 or £50,000. This sum would include all commitments to that date.

The Hon. H. K. Watson: Including the £14,000 for the crane?

The Hon. A. F. GRIFFITH: Yes.

The Hon. F. J. S. Wise: That was not mentioned when I drew attention to the discrepancy.

The Hon. A. F. GRIFFITH: No; but I hope that clears up the point to the satisfaction of the honourable member. Mr. Wise also said that the drafting of the Bill was the brain-child of the Prudential Assurance Company, and he sought advice on this point and an assurance that this was not so. I am quite happy to give him that assurance. The Bill, as originally drafted for the Labour Government by our own Chief Parliamentary Draftsman, was referred to and approved by a majority of the Parliamentary Liberal and Country Parties.

To make certain that it would satisfy the Prudential Assurance Company, which company raised the original objection, the Bill was forwarded to the company for its consideration. The legal advisers to the company recommended the acceptance of the Bill, subject to two minor alterations in the wording which made not the slightest difference to the intention of the Bill; and the Government, therefore, agreed to the alterations.

Both Mr. Wise and Mr. Watson were of the opinion that, by adding the words, "or in a particular building activity" to the long title of the principal Act, the Bill has made possible further guarantees by the Treasurer on a very wide basis. Since that time both Mr. Thomson and Mr. Mattiske have raised the same point. However, the advice I have received from the Crown Law Department is that this contention is entirely without foundation. I am informed that the long title of an Act has no operative significance. It is merely a general description of the contents of a measure. Members are fully aware that the provisions in an Act must come within the ambit of the wording of the long title of the Act. For instance, an Act to provide for the registration of dogs should not contain a provision dealing with cats.

It was successfully argued previously that a guarantee for the Canterbury Court project could not be given under the principal Act. To overcome this situation, it is necessary to alter the long title of the Act so that the operative part of the Act can be amended.

The Hon. H. K. Watson: Would you mind reading that again?

The Hon. A. F. GRIFFITH: It was successfully argued—

The Hon. H. K. Watson: When?

The Hon. A. F. GRIFFITH: Last time; because, if my memory serves me correctly, we were successful in sending an amendment to the Assembly.

The Hon. F. J. S. Wise: No; it was decided on the second reading. Mr. Mattiske's amendments were never moved.

The Hon. A. F. GRIFFITH: Yes. I remember now that that did take place. For Mr. Watson's benefit, I repeat that it was successfully argued previously that a guarantee for the Canterbury Court project could not be given under the principal Act. To overcome this situation it is necessary, therefore, to alter the long title of the Act so that the operative part of the Act can be amended.

The Hon. F. J. S. Wise: The advice that we received from the Crown Law did not agree with you.

The Hon. A. F. GRIFFITH: That is the advice that I have received from the Crown Law Department.

The Hon. F. J. S. Wise: But it did not agree with the point made by the Prudential Assurance Company that it should not be included in the long title of the principal Act.

The Hon. A. F. GRIFFITH: Now, or previously?

The Hon. F. J. S. Wise: Previously.

The Hon. A. F. GRIFFITH: This is a very large file; and I must admit that I have not gone through it to discover what the Crown Law advised on a previous occasion, except to check the point that the Bill was sent to the Prudential Assurance Company for its consideration; and its legal advisers pointed out that, in their opinion, two minor alterations were required in the wording of the Bill, and the Government accepted them. This was reasonable in view of the fact that the company was a party to the proposition.

If the long title were not altered, it could still be argued that the proposition in the Bill did not come within the ambit of the Act. That was part of the basis of the argument put forward last year. The Bill authorises the Treasurer to grant financial assistance to a particular building industry. If members will refer to the

Bill, they will notice that it makes reference to Canterbury Court Pty. Ltd. and to the erection and completion of a certain building on a certain location. It then goes on to give the particulars of the location.

However, any such building activity must be referred to in the operative section of the Act. Once the Canterbury Court guarantee is settled, the provisions in this Bill so far as that company is concerned, become so much dead wood. Another advance, similar to this, would require an amendment to the Act on the same lines as this one. If any succeeding Government wishes to assist financially, under the Act, some other building activity, it will have to take steps to amend the principal Act again with a Bill which contains provisions similar to those in the Bill before the House.

In opposing the Bill, Mr. Watson referred to the remarks that he made in the debate on the Address-in-reply, when he recommended that action should be taken to make the intent of the Act quite clear. I advise the honourable member that on the day following his comment, that portion of his speech was passed to the Minister concerned. He then sent it to the Commissioners of the Rural and Industries Bank; and, at the present time, it is in the hands of the Attorney-General. Therefore, the honourable member can see that action has been taken following the suggestion that he made.

I trust that clears up any doubts which members may have had; and I do not think there is any necessity for me to speak further except to reiterate that the Government Parties are not, by any means, enamoured of this Bill. The Government has merely introduced the measure to fulfil an undertaking that was given by the previous Government. We gave an assurance that if we became the Government we would introduce this legislation in order to extricate the previous Government from the difficult position in which it had placed itself; and to make legal all that had taken place up to that time.

Although Mr. Wise thinks it is strange that I should be introducing the Bill, I hope that the explanation that I have now given will assure members that it is reasonable for me to introduce it; because Mr. Logan and I are colleagues in this House, and we bring the Bill before the House for ratification.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (the Hon. G. C. MacKinnon) in the Chair; the Hon. A. F. Griffith (Minister for Mines), in charge of the Bill.

Clause 1 put and passed.

Clause 2—Long title amended:

The Hon. H. K. WATSON: The Minister has explained to us that the long title is being amended for the reason stated; namely, to make it clear that the principal Act, as amended, will contain power to ratify the guarantee to be given to the Canterbury Court project. If I understand him aright, the implication behind the Minister's speech is that whereas, in the past, Crown Law officers have placed on record various assurances and interpretations that the principal Act as it now exists gives power to guarantee any advances made to the Canterbury Court project or similar ventures, I would like an assurance from the Minister—in view of the statement he has made—that we have to accept the position that the Crown Law Department has changed its opinion and conceded that the principal Act is not so wide as it thought it was.

That is the whole basis on which we are agreeing to the clause. Whilst that was the inference that I drew from the Minister's remarks, a doubt was raised in my mind following his subsequent explanation —which was rather tortuous—in regard to the suggestion I put forward during the debate on the Address-in-reply. What is to happen, if anything, to my suggestion? The Minister obviously does not know. Meanwhile, I would like the Minister's assurance—in view of what he has already admitted—that it has been successfully argued that a project such as the Canterbury Court building is not an industry within the meaning of the Act.

I would like an assurance from the Minister that the Crown Law Department accepts his explanation; in other words, that the explanation given is not merely a ministerial explanation, but is one based on Crown Law advice.

The Hon. A. F. GRIFFITH: The Crown Law Department advises me that the statements made by Mr. Wise and Mr. Watson are without basis, when they contend that with the addition of words to the long title, the Bill will provide for the widest guarantees to be given by the Treasury. The honourable member has asked for an assurance that this Bill will only deal with Canterbury Court Pty. Ltd. I am assured by the Crown Law Department that that is the position; and that when that project has been completed and the guarantee settled, there will be an end to this provision.

The Hon. H. K. WATSON: The point I made was that the alteration to the long title was not to throw the Act wide open, but only to confirm that the Act was wide open. That was the opinion given by the Crown Law Department last year, when the Prudential Assurance Co. challenged the guarantee.

The Hon. F. J. S. Wise: The term "industry" included everything.

The Hon. H. K. WATSON: The opinion given just now by the Minister is different from the opinion given last year by the Crown Law Department. If that department has changed its opinion since, and is prepared to adhere to the altered opinion, I shall be satisfied. I do not want the Bill to be passed on that assurance, and then to find in 12 months' time, when another Bill is introduced, that the opinion is again different and the Treasury can guarantee the loan.

The Hon. F. J. S. WISE: This is not so much a change in the opinion held by the Crown Law Department. I contend that "industry" had the widest interpretation and included primary, secondary and tertiary industries. The situation now is that since the Prudential Assurance Co. is not prepared to accept the wide interpretation of the word "industry"—and it did not last year—the Crown Law Department has agreed to include the words in the title, in order to meet the needs of that company, and enable the Government to give the guarantee which has been accepted by the Commonwealth Bank. I accept the explanation of the Minister that the relationship between the long title and the operative sections of the Act is necessary to meet that situation.

The Hon. J. M. THOMSON: To ensure that the Bill covers only Canterbury Court Pty. Ltd. I propose to move an amendment. It was clearly indicated by the Minister that the Bill should be introduced solely for that purpose. I move an amendment—

> Page 2, line 6—Delete the words "in a particular building activity" and insert the words "the particular building activity, e.g., Canterbury Court Pty. Ltd." in lieu.

The Hon. A. F. GRIFFITH: I have already given the honourable member an assurance in that regard. The amendment will make the long title of the Bill ridiculous.

The DEPUTY CHAIRMAN (the Hon. G. C. MacKinnon): I am advised that it is not wise to use the abbreviation "e.g.". If the amendment is agreed to the long title will read as follows:—

> An Act to authorise the Treasurer to grant financial assistance, either direct or through the Rural and Industries Bank of Western Australia, to persons engaged in mining or other industry; or the particular building industry, e.g. Canterbury Court Pty. Ltd.; to validate certain past financial assistance granted to such persons; and for the purposes connected therewith.

The Hon. J. M. THOMSON: I intended to use the term "viz.", instead of the term "e.g." I ask leave to correct my amendment.

The DEPUTY CHAIRMAN (the Hon. G. C. MacKinnon): Is it the desire of the Committee that leave be granted? There being one dissentient voice, leave cannot be granted. The amendment will have to remain with the term "e.g." included.

Leave not granted.

The Hon. A. F. GRIFFITH: I am sure the honourable member would not want to ruin the Bill. Therefore I appeal to him to withdraw his amendment. I assure him that before the Bill is read a third time, I will gain the definite opinion of the Crown Law Department and convey it in writing to members.

I have already given the Crown Law opinion on the matter, but if that is not satisfactory, members are quite entitled to question it again. If the honourable member will withdraw his amendment which now, with great respect, is going to appear rather foolish in the Bill because of the use of the words "e.g.", I will obtain a further assurance from the Crown Law Department on this question before the Bill is read a third time.

The Hon. R. C. MATTISKE: I think the Minister's suggestion is a very sensible one. The operative section of this Bill is the proposed new section 3A. That limits it entirely to Canterbury Court; and if, in the future it becomes necessary to grant assistance for any other particular building activity, there must still be an additional operative clause introduced to ratify any further advance of this nature. I hope that the amendment will be withdrawn.

The Hon. J. M. THOMSON: In view of the Minister's remarks, I ask leave to withdraw my amendment.

Amendment, by leave, withdrawn.

The Hon. H. K. WATSON: To make the record complete, it may be as well to remind members that the original Act in 1947 had its genesis in some transactions which were conceived earlier; because we find that the long title then included the words "to validate certain past financial assistance granted to such persons." We are now validating for the second time. I hope that in the future we do not again find ourselves being asked to validate our actions.

Clause put and passed.

Clause 3 and Title put and passed.

Bill reported without amendment and the report adopted.

TOWN PLANNING AND DEVELOPMENT ACT AMENDMENT BILL

Order Discharged.

On motion by the Hon. L. A. Logan (Minister for Local Government), order discharged from the notice paper.

House adjourned at 10.20 p.m.