# Legislative Council

Tuesday, the 18th October, 1960

CONTENTS



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

## QUESTION ON NOTICE

### KATANNING-NYABING RAILWAY

*Reopening*

The Hon. S. T. J. THOMPSON asked the Minister for Mines:

(1) On what date is it intended to reopen the Katanning-Nyabing railway?

(2) What is the anticipated cost of bringing the line to running order in—

(a) bridges and culverts; and

(b) sleeper laying and line maintenance?

(3) Will extra gangs be required to do this work?

(4) If so, will they operate from Katanning or Nyabing?

(5) Has a start been made on the above work?

(6) If not, when is it intended to make a start?

The Hon. A. F. GRIFFITH replied:

(1) The 9th January, 1961.

(2) (a) £6,950

(b) £15,700

Of this sum the expenditure prior to and after opening will be:—

| | Prior to Opening | After Opening |
|---|---|---|
| (a) | £5,950 | £1,000 |
| (b) | £6,700 | £9,000 |
| Totals: | £12,650 | £10,000 |

(3) Two additional gangs will be required.

(4) One gang will operate from Katanning and one from Nyabing.

(5) No.

(6) The 7th November, 1960.

## BILLS (3)—THIRD READING

1. Plant Diseases Act Amendment Bill.

On motion by the Hon. L. A. Logan (Minister for Local Government), Bill read a third time, and passed.

2. Prevention of Pollution of Waters by Oil Bill.

3. Northern Developments (Ord River) Pty. Ltd. Agreement Bill.

On motions by the Hon. A. F. Griffith (Minister for Mines), Bills read a third time, and passed.

## TRAFFIC ACT AMENDMENT BILL

*Second Reading*

Debate resumed from the 13th October.

**THE HON. G. E. JEFFERY** (Suburban) [4.40]: I want to say at the outset that I support the Bill; although I am not sure whether some of its provisions are quite as they might be. However, time will show the value of some of the amendments.

I view with mixed feelings the amendment which proposes that it shall no longer be incumbent on a used-car dealer to enter into a bond of £3,000. I do not know whether I am unjust in my outlook, but I have the feeling—perhaps it comes down through the ages—of distrust that the ordinary individual has for a dealer. Someone once wrote a story called *Ali Baba and the Forty Thieves*; and from speaking to a number of my constituents who have bought secondhand cars, I rather think that the car dealers represent the modern version of the forty thieves.

Of course, the car dealer has his point of view, too; some of the people with whom he does business are doubtful customers. All in all it is quite probable that the legislation contains sufficient protection, without the bond, to control the individuals who engage in car dealing.

I suppose there is really not much difference between the ageless Arab dealing in horses in the bazaar, and the modern car dealer who haggles over a car powered by so many horsepower. When we see that car dealers have to produce character references, and that the police have the right to withdraw a car dealer's license; plus the fact that used-car dealing, today, is not the goldmine it was a couple of years ago, I do not think the provision of a bond has much bearing on the position. Many of the people who were in it as fly-by-nights have left it, and most of those engaged in used-car dealing today are legitimate business people.

The Bill requires that a list of the transactions engaged in by a dealer shall be kept in each of his places of business. That provision is quite sound; it will facilitate the activities of the police in tracing stolen vehicles and so on. The House should rightly support this provision.

One thing that amazed me when the Minister introduced the measure—but I agree with his comments—was in connection with the sale of taxi plates. Together with the Minister for Mines and the Minister for Local Government, I sat, some two years ago, as a member of a Select Committee which dealt with the question of taxis in the metropolitan area. All who came before us, whether proprietors or drivers, told us of the parlous state of the industry; and I was never able in my mind to reconcile their story with the fabulous figures quoted for the purchase of taxi plates. As the Minister said, an amount of £500 or £600 seems to be quite common.

I agree with the provision in the Bill to stop trafficking in these plates. The measure will allow a genuine transfer of plates to be effected as a result of age or chronic ill-health. If a man wants to get out of the industry for any reason other than ill-health, or something of that nature, he should not be able to make a profit out of something where no goodwill really exists.

The Government is standing fast on the point that the flag-fall of taxis should remain at 1s. 6d. despite the request that it should be 2s. Whether the Government intends this or not, I think the Government is doing the taxi proprietor a good turn. The flag-fall of 1s. 6d. has the effect of making the taxi a fairly popular form of transport around the city. The raising of the flag-fall to 2s. could help kill the goose that lays the golden egg—the person who wants to travel a short distance in a hurry; and I am not thinking of members of Parliament who want to get to Parliament House quickly.

Another provision will allow the taxi driver to increase the cost of waiting time from 12s. to 15s. an hour. This is a reasonable proposition. If a person keeps a taxi waiting, it is fair that the taxi driver should get 15s. instead of the 12s. that prevails at the moment.

A point I am not too happy about is the provision that if a taxi is engaged and not used, the taxi owner shall have the right to claim a fee of 3s. Only as recently as last Saturday night I had the glaring example of a taxi being engaged and not turning up within a reasonable time. What tends to happen is that people ring for a taxi, and the company accepts the call hoping it can meet the call; but generally the taxi companies take the lucrative calls and let the 3s. ones fall by the wayside. Last Saturday night a company which provides a service to certain people every Saturday night—the fare would be about 3s.—was asked to supply a taxi. The people concerned wished to go to the local picture show. They rang the taxi company at about 20 minutes past 7 in the evening, and at 5 minutes to 8 they were still waiting for the taxi. I was able to be a good Samaritan, so they rang and cancelled the call.

It could be said, of course—and I do not doubt this—that taxis are engaged and that when they arrive to pick up their fares, they are told they are no longer required. If a taxi turns up within 10 minutes of being called, and the driver is told he is not required, I think he should receive some compensation. But if a person engages a taxi at 7.15 p.m. in order that he may attend a performance at the local picture show, and the taxi has not arrived by quarter to 8, and the person engaging the taxi has not been able to cancel the call, I think the taxi driver has no call on the individual who engaged him.

As I say, the taxi companies take all the calls hoping they can meet them, but if they cannot they select the lucrative ones and let the small ones go. The Minister should have another look at that aspect of the matter; he may be able to make some further comment which will disabuse my mind on the point. At present I am not too happy about it.

At the moment taxis are allowed to charge 6d. for every 28 lb. of luggage, irrespective of distance. The Bill provides that the new rate shall be 6d. for every 56 lb. of luggage for every two miles of distance. I think that is quite fair, because in some instances people load taxis with so much luggage that they should really engage taxi trucks. I have had experience in other cities—Adelaide in particular—of reduced rates for luggage. The traveller tends to find out before long, that quite a few taxi companies do not charge for luggage; and then there is a natural flow to those companies. I think it is fair enough that a taxi owner should have the right to make the charge mentioned in the Bill.

The measure also provides that a taxi driver shall exhibit, in printed form, a list of his charges. It is most important that the patron should know, before he engages a taxi, what the charges are. Frankly, whilst most taxi men are decent types and reflect credit on the City of Perth, it is no good saying one thing and meaning something else: There are people among the taxi drivers who do the State a disservice. I suppose such people exist in all parts of the world; but in Western Australia, which is becoming tourist-conscious, the taxi driver is a most important person inasmuch as he has an influence on the tourist who is leaving the State. If a tourist receives courtesy at the hands of the taxi drivers, then that treatment

will have a bearing on the opinion he forms of the State. On the other hand, if a tourist has unfortunate experiences with the taxi drivers, he will go away with a jaundiced opinion. The taxi driver plays a most important part, not in attracting tourists to Western Australia, but in regard to the opinion that the tourists form when they leave our shores.

Some features of the taxi industry are not covered by the Bill; but there does tend to be a terrific turnover of personnel of the taxi companies; and when there is such a turnover, we do not always get the staff we like. No doubt the Minister is as well aware of this feature as I am.

I am pleased that the Bill seeks to cut out cruising in the City of Perth. I know this provision will be difficult to police, but the intention is a good one. Again, time will be the true test of what is provided for by the Bill.

The proposal is to have single taxi ranks in Hay Street, Murray Street, Wellington Street, and St. George's Terrace, and for them to be fed from feeder ranks. Whilst cruising has advantages—one can hail a cruising taxi—I would say that generally speaking the disadvantages far outweigh the advantages; and I speak as a motorist, a user of taxis, and a pedestrian of the City of Perth. From the taxi owner's point of view, this provision should be attractive as it should assist in reducing the operating costs of taxis quite a bit. I think the proposal is a good one; and I hope the taxi proprietors will play the game under this measure. I believe that most people, by their conduct, conform to our laws. In the circumstances I believe everyone will be advantaged by the establishment of feeder ranks, and the four single stands in the city itself.

The provision allowing for the acceptance of license certificates for vehicles from other States is quite fair. I do not think the mechanical examination of vehicles will ever prove to be thoroughly satisfactory. A vehicle could be examined in the morning and found to be mechanically sound, and yet two hours later it could have a mechanical failure. Therefore, I think the Government is doing the right thing by accepting license certificates for vehicles from other States.

There is one provision in the Bill which I am certain will please many motorists who drive in the metropolitan area; that is, that the expenditure on the provision of traffic lights at intersections is to be increased from £40,000 to £60,000 per annum. Every metropolitan motorist realises the great strain that is taken from him when approaching an intersection at which traffic lights are installed. I only hope that the £20,000 increased expenditure will expedite the erection of traffic lights at several intersections where they are badly needed at the moment.

I am opposed to the provision which seeks to prohibit taxi drivers from advertising in their cabs. In my opinion they should be allowed to advertise on one condition; namely, that the advertisement shall not be placed in the vicinity of the sign on the taxicab that sets out the charges because, if this were done, it would tend to distract the passenger's attention. I can see no reason why advertising should not be allowed in taxicabs, because it is permitted in buses. It would be a sound idea, I think, if the advertising in taxicabs were restricted to Government Tourist Bureau advertisements. The display of Western Australian scenic and beauty spots in the taxicabs would tend to foster our drive for tourists in this State. Therefore, I am of the opinion that the Minister should review that provision.

The clause in the Bill which should please all the poor people of Perth is that which seeks to repeal the provision in the Act covering the licensing of the poor man's Packard—the push cycle. At present the license fee for a cycle is 2s. per annum; and actually it represents an irksome duty for a parent to register a cycle and pay this fee. I am aware that some people have mixed feelings regarding this provision in the Bill, because they are of the opinion that the registration of the cycle and the payment of the 2s. license fee make the task of the police easier when trying to trace a stolen cycle. However, when I came to check the registration of push cycles in this State I thought I was in Denmark because I discovered that the total number registered is approximately 80,000. I also ascertained that 95 per cent. of stolen push cycles are returned to their rightful owners within three days. Some police officers contend that the main reason for this high percentage is that the push cycles are licensed at different stations throughout the metropolitan area, and one can very quickly ascertain from which police station any cycle has been registered by checking the serial number. After obtaining this information, of course, it is a simple matter to find out who owns the cycle that has been stolen.

I am not sure whether the issuing of a new license plate for a push cycle every year is the answer. The problem of tracing stolen cycles might be solved by maintaining a check on the purchase of new cycles so that should a cycle be stolen and subsequently recovered it can be returned to its rightful owner. However, the Government will not be losing a great amount of revenue by waiving this 2s. license fee on push cycles; and, apart from the parents who will be relieved of the irksome duty of registering their children's cycles, the police officers at the various suburban police stations will be just as pleased because they will not have to go through the rigmarole of filling in forms for the registration of push cycles, which must cost the Government more than it

receives in revenue. With the exception of the two or three points I have raised, which I think the Minister could have another look at, I support the second reading of the Bill.

THE HON. G. BENNETTS (South-East) [4.55]: I have had this Bill studied by various people connected with the taxi industry. With the exception of one provision, the Bill, in my opinion, meets all requirements. I have one friend who is a member of the Metropolitan Taxi Owners' Association and I also have many friends who operate taxis in country districts. I have taken a great deal of interest in the taxi business for quite a long period and I have ascertained that local taxi drivers have endeavoured for many years to bring the taxi business up to a high standard. They are anxious that the taxis should be kept clean and mechanically efficient at all times; that the drivers should wear uniforms; and that the drivers themselves should be men of reputable character.

It must be understood that during the last 12 months or two years the cost of running a taxi has increased tremendously. There have been sharp increases in registration fees, drivers' licenses, third-party insurance, cost of parts, tyres, etc. As citizens in this State, we want to see a good service rendered by the taxi drivers. To obtain this we should ensure that the operators are given a reasonable chance to maintain a good service. For example, a few moments ago I heard Mr. Jeffery mention the flag-fall charge. With all due respect to those people who use taxis, I consider that a flag-fall charge of 2s. is not exorbitant. Should one order a taxi to call at the front of this building, it must be realised that the driver of that vehicle has probably sat for quite a considerable time on the taxi rank; and after answering the call his fare may be only 1s. 6d. to carry the passenger a couple of blocks. Therefore, it is hardly worth his while to accept that fare. However, if he receives 2s. flag-fall and he has a journey of five miles or more at 1s. 6d. per mile, it will work out cheaper for the passenger than if the mileage rate is increased.

The Hon. A. F. Griffith: In your opinion, what would it cost to travel in a taxi from the Perth Railway Station—?

The PRESIDENT: Order! I must ask the Minister to refrain from interjecting.

The Hon. G. BENNETTS: It costs me 2s. 3d. to travel from the railway station to the Melbourne Hotel with my luggage. That is an extremely reasonable charge for any taxi driver to make. I would not like to carry anyone in my car, together with a bag, over a journey such as that; because, today, any trip through the city by car is quite a strain, and can be irksome. I would be quite prepared to pay an extra 1s. flagfall to travel over a short distance such as that, because if the flagfall rate were increased it would help to ensure that we got the right type of taxi driver, and that the taxis were kept up to date and efficient, not only in the metropolitan area, but also on the goldfields and in other country centres. It would also help to keep out of the industry any undesirable characters who sought to drive taxi cabs as a vocation. In any part of the State, there should be a strict test set for taxi drivers. The applicant should produce a character reference. I do not know whether that has to be done at present.

The Hon. F. R. H. Lavery: Don't you think the driver has those qualities now?

The Hon. G. BENNETTS: I do not know. I suggest taxi drivers should have those qualities. Some applicants for a taxi driver's license who should not be admitted, manage to slip into the industry. I have visited the Eastern States and travelled in the taxis there. In Adelaide the flag-fall charge is 2s. to 2s. 6d. On the goldfields it cost me 5s. to travel 1¼ miles in a taxi.

In my view the best method is to place the control of this taxi business with the transport authority which now controls traffic. This control should be taken away from the Police Department, because the transport authority is the one which can more readily work out fair charges. That is its line of business. It will be able to exercise control over taxis, in conjunction with other means of transport.

Mr. Jeffery referred to advertisements in taxicabs. I take it that refers only to advertisements inside the cabs, and not an advertisement such as "Swan Taxi Service" on the outside of the car.

The Hon. H. K. Watson: It refers to advertisements inside the cab.

The Hon. G. BENNETTS: There is a provision on page 7 relating to the installation of meters in taxicabs. I might point out there is a monopoly in the supply of such meters. The price of taxi meters ranges from £78 to £90 each, according to the make. The cost of hiring a taxi meter is £24 for the first year, reducing by £2 per year thereafter. Should any faults occur in a meter, it has to be sent back to the supplier—the person holding the monopoly—to be repaired. The cost of repairs is terrific. I know of a person who purchased a meter and sent it to be repaired, and the cost of the repairs was one half of the cost of the meter.

If spare parts are required for taxi meters there is only one place from which they can be obtained; that is, from the person holding the monopoly of taxi meters. Pretty stiff prices have to be paid for these spare parts. I do not like this type of monopoly. In a line of business like this one, where the people concerned render a service to the public, the Government should implement a system under which taxi meters could be obtained.

Some taxi meters are installed in an awkward place in the cabs, where passengers cannot readily see them. If a passenger is short-sighted, in some cases he has to get down on his hands and knees to be able to observe the reading on the meter. It would not be a hardship to taxi owners if they were compelled to install the meters where they could be readily seen.

In regard to the carriage of luggage, some people travel with plenty of luggage and actually require a trailer. I consider the charge for the cartage of luggage on taxis to be reasonable. In Sydney I paid 1s. per case, and in Adelaide the charge was about the same.

A limit should be placed on the number of taxi plates which are issued. When I was a member of the board in Kalgoorlie, taxis were under the control of the Kalgoorlie Municipal Council. A limit of 30 taxi plates was set to enable the drivers to obtain a reasonable living from the amount of traffic that was offering. Later on, however, the number was increased and the drivers found they were not able to obtain a reasonable living, or pay off their vehicles. Subsequently the number was reduced.

By suggesting a limitation on the number of taxi plates to be issued, I do not mean that taxi owners should be given a monopoly. If the Government adopts my suggestion of handing over the control of taxis to the transport authority, then that authority would be able to ascertain the number of taxis required to meet the demand.

I do not agree with the provision in clause 8 which states that all taxis within the State shall have meters. In towns with a large population that might be all right; but in centres like Bullfinch, Southern Cross, Norseman or Esperance, such a provision would be impracticable. There are only two taxi runs from Bullfinch: one is into Southern Cross, and the other to a mine three miles from the town. There is a set charge, and the people know it. I do not agree that taxi owners in centres such as those should be compelled to go to the expense of installing meters which, as I said, cost between £78 and £90. Furthermore, should anything go wrong with the meters, a terrific cost is involved in repairing them. The provision in clause 8 should be limited to certain defined areas. During the Committee stage I intend to move an amendment for that purpose.

Reference was made by Mr. Jeffery to the abolition of the licensing of bicycles. Some years ago on the goldfields the cost for licensing bicycles was 1s., and plates were issued to the owners. There was no further cost, unless the owner lost his registration plate and required a new one. Later on this became a yearly license; and this system has much in its favour—not that I want to see this charge being imposed on people.

Before becoming a member of Parliament, on one occasion I parked my bicycle in Hannan Street. A motor vehicle came along and ran into my bicycle, although there was a distance of 100 yards on each side of my bicycle where the driver could have driven her car. She made the wheel of my bicycle into an S shape; and she said that my bicycle should not have been there, because it was not licensed.

I told her to look at the number plate. I then said, "I am a member of the Kalgoorlie Municipal Council, as well as a member of the traffic committee. Are you prepared to pay for the cost of repairs to my bicycle?" She refused, so I told her that I would call the traffic inspector. When she saw I was in earnest, she said, "Do not do anything. I have not a driver's license." Arrangements were made by that person to have my bicycle repaired and returned to me.

By having a number plate, in the event of a bicycle being stolen the police are able to get in touch with the local authority which licensed the bicycle, and so trace the owner. When bicycles are left unclaimed—such as at the Olympic swimming pool in Kalgoorlie—the police are able to trace the owners through the local authorities concerned; they can then return the bicycles. I do not know whether we would be doing the right thing by abolishing the licensing of bicycles. Bicycles should be licensed and the number plates should be retained by the owners until they are sold. Should plates be lost, the owners should be charged a few shillings for replacement.

The people concerned in the taxi industry have told me that the Bill is quite satisfactory, with the exception of the provision relating to the flag-fall charge. I honestly think that the extra charge of sixpence on hiring a cab, which may be required for a journey of only 100 yards, is reasonable. The taxi driver is entitled to receive a fair return for the services he renders to the public, to enable him to provide a cab of a good standard.

It is our aim to attract visitors to this State. By providing taxis of good standard these visitors will appreciate the service we have to offer them. We should have good clean taxicabs driven by drivers dressed tidily. The drivers themselves should be men of good character. For those reasons, consideration should be given to increasing the charge of taxi hire. It is far better to increase the flag-fall charge by sixpence than to increase the existing mileage charge. By increasing the mileage charge, people living in the out-back would be seriously affected, because generally they have to make long journeys.

I do not see that any hardship will be caused by increasing the flag-fall rate. I ask the Minister to consider the suggestion of handing over the control of taxis to the transport authority. I do not know whether this is correct, but complaints have been made that over a period the Minister in charge of these matters was difficult to approach. On many occasions he refused to see deputations from taxi drivers. They wanted to see him to put forward their problems, but he did not want to see them.

In conclusion, I say that the flag-fall rate, not the mileage rate should be increased; and the control of taxis should be placed under the authority of the Transport Trust. I support the Bill.

**THE HON. F. R. H. LAVERY** (West) [5.13]: In rising to support this measure I want to refer to one or two of the provisions; but before doing so, I protest against the remarks of the previous speaker, when he referred to a group of people in our community—the taxi drivers. He did not speak highly of them. I do not know how many members in this House are aware of the situation.

*Personal Explanation*

The Hon. G. BENNETTS: On a point of order; I do not think I condemned them.

The PRESIDENT: Is the honourable member making a point of order?

The Hon. G. BENNETTS: I am making a personal explanation. The honourable member stated that I said these men were not of high character; that I condemned their character. I do not think I said that. I said that it should be our aim to attract a respectable class of people to become taxi drivers. I said that by increasing the flag-fall charge by 6d. we would attract the right type of people into the taxi industry.

The PRESIDENT: The honourable member's explanation is accepted.

*Debate Resumed*

The Hon. F. R. H. LAVERY: Unfortunately, I am one of those people who step where angels fear to tread. Whenever I hear a group of people being criticised, and they are not in a position to defend themselves, I speak on their behalf.

I wonder how many members of this Chamber realise that a taxi driver—and a bus driver—has to undergo an examination far beyond that of an ordinary driver in order to obtain his license. He has to undergo a comprehensive medical examination, not by any doctor—and there is no disrespect to Dr. Hislop—but by a police doctor; and only a police doctor. The applicant also has to have three character testimonials covering a period of years; and while I admit there are some taxi drivers who do not dress as tidily as others, as far as the average type of potential taxi driver seeking a license is concerned, I can assure members that the Commissioner of Police is proud of the fact that no taxi driver is granted a license unless he is of a very high and sound character.

I am very pleased to see that this Bill provides for the transfer of taxi-car license plates for reasons of ill-health or old age. I have several documents with me to support my views on this matter. Some three years ago when the matter of taxis was before the House, the present Leader of this Chamber was able to get the House to agree to the appointment of a Select Committee, of which he became the chairman, to investigate this matter. The result was that this House placed a restriction on the transfer of license plates.

A section of the public was badly hit by this decision. I propose to cite one example where people were affected owing to ill-health. Some members of a family in Fremantle have operated as taxi drivers for nearly 50 years. Approximately 15 months ago one member of the family—a taxi operator—suffered a breakdown in health, and his condition is now such that he will not be able to work again. At the time of his breakdown, the man concerned had purchased a car—and he was paying it off—for the purpose of operating a taxi business. He had already obtained a license from the department. However, because of his breakdown in health, he found himself in the position of having to dispose of his car, on which he owed £700; but he found he could sell it for only about £400. The vehicle was in a fairly low state of repair. When this man found he was unable to transfer his license plates, he spent £200 in bringing his vehicle up to the normal condition required by the department. I would point out that these cars are carefully examined by the department annually.

The man concerned found it necessary to pay a driver in order to operate his car as a taxi. I have the car-owner's books with me, and they show that in paying his driver the standard rate of 8s. in the pound, he made a profit for the year of £223. Unfortunately—and this is the point I wish to emphasise—because the man concerned was able to pay off £120 7s. 4d. on the car, his social services benefit was reduced by 50 per cent. In addition, as soon as his social services benefit was reduced, the Housing Commission increased his rent.

The Hon. A. F. Griffith: It has got to do that.

The Hon. F. R. H. LAVERY: This man is completely finished so far as working is concerned—he is a young man about 40—and he is unable to sell his taxi. This amendment is one that deserves the full support of the House, because there are many other people facing the same difficulty.

The Hon. A. F. Griffith: The Housing Commission has got to increase the rent.

The Hon. F. R. H. LAVERY: I am aware of that. I am merely pointing out that because this man is not permitted to transfer his license plates, he will have to return them to the department; and if he manages to sell his car, he will still be approximately £400 in debt.

Paragraph (b) of the proposed proviso contained in clause 3 (a) states—

> in any case where he is of opinion that exceptional circumstances warrant a taxi-car license being transferred, the Minister may on the recommendation of the Commissioner of Police permit that taxi-car license to be transferred.

I am prepared to move in Committee that this subclause be amended to provide that the Minister "shall, if the Commissioner of Police so recommends." I have the greatest faith in the Commissioner of Police; and I am sure he would recommend the transfer of license plates in the event of a deserving case.

I support the taxi-drivers in their complaint which, I feel, is a genuine one. They have a solid organisation, and it does not receive the co-operation of the Minister. The Minister seems adamant that he will not meet these people. I know of no other Minister, either in the present Cabinet or any other, who is not prepared to meet the representatives of an organisation if a good case is placed before him. Taxi-drivers are part of our way of life. The Minister should give this matter a second thought and should receive these people from the point of view of their representing an organisation.

**THE HON. R. THOMPSON** (West) [5.23]: My contribution to the debate will be brief. I am not in favour of proposed new subparagraph (u) in clause 8, which states—

> Prohibit or control the carrying or exhibiting of notices, signs, posters, placards or advertisements, in or on taxi-cars generally;

When one looks at our State Railways, one finds that all types of advertisements are plastered in the first and second-class carriages. Under this provision a taxi-driver will be prohibited from displaying even a very small advertisement—one measuring perhaps 2 in. by 2 in.—despite the fact that it may have a remunerative advantage to the taxi-driver. I do not propose to record a silent vote when this Bill reaches the Committee stage.

Although there should be some limitation as to size, as yet I have not seen a taxi-driver exhibiting a large sign or advertisement in his vehicle. It might be possible for me to hire a taxi and in so doing exhibit one of my election posters in the vehicle. The driver may not be aware of the poster, but if he were pulled up by the police and an inspection made of his cab he would be subject to prosecution. I think there are many good features contained in the Bill, but this is not one of them.

**THE HON. H. C. STRICKLAND** (North) [5.26]: My comments are concerned with the same amendment. From time to time during election campaigns we hear parties complain about controls, or the need to relax controls. Here we have an amendment to the Traffic Act which proposes to control the activities of a free enterprise. Surely there is no freer enterprise than the taxi business. It is not controlled by either the motorcar manufacturers or the oil companies. A man is free to operate a motor vehicle; and I always thought that an individual was free to operate a taxi service. Such was the case at one time. However, over the years the taxi business has reached the stage where it is now very tightly controlled.

I have no objection to controlling the type of person who operates a service of this nature, dealing as it does with the public. But I feel that when taxi operators are going to be hamstrung by a Government that preaches free enterprise, then it is time we said something about it. Proposed new subparagraph (u), to which I have already referred states—

> (u) prescribe special provisions for the control, operation and movement, in any prescribed area, of taxi-cars, generally.

I would like, at this point, to relate an incident which occurred in New Zealand. Some tourists were sightseeing in that country and had not booked accommodation at any place. Nor had they arranged transportation from one place to another. It was a question of proceeding by whatever means were available, and securing accommodation wherever they could. The party arrived at Lake Te Anau in the South Island, and found that the only accommodation available was at a lake resort some twelve miles away.

A taxicab containing two American tourists arrived from the city of Christchurch, and the American tourists invited the taxi driver to dine with them. The tourists who were seeking transport to the accommodation twelve miles away asked the taxi-driver if he would drive them over, since his was the only taxi available. The driver told them "That is more than my business is worth." He said "I would like to drive you over, but I am not allowed to take a fare in this area. I can bring one in and take the same one out, but I am not allowed to operate while I am in this area." We find that this Bill proposes to do exactly the same thing.

The Hon. G. Bennetts: From the railway station in Sydney they have that scheme.

The Hon. H. C. STRICKLAND: Surely if a person is for hire, he should be for hire anywhere in the State. If this Bill is passed, and a person is stranded, a taxi driver will be prevented from doing business with him unless the person happens to be in the area in which the taxi driver has authority to operate. That will not only impose a penalty on the taxi drivers, but it will also impose a penalty on those who want to hire taxis and who are looking for transport.

We read and hear a lot about controls and restrictions, but this Bill will impose very severe handicaps; and the controls which are prescribed by regulation will remain in force until Parliament has had an opportunity to disallow them. I think careful consideration should be given to this proposed amendment in the Bill.

**THE HON. A. F. GRIFFITH** (Suburban—Minister for Mines—in reply) [5.31]: *In replying to the second reading debate* I want to thank members who have spoken on the Bill for the suggestions that they have made. It is my intention to ask the House to agree to the second reading and to go no further today. I will ask that the Committee stage be made an order of the day for another sitting, which will give me an opportunity to discuss the matter with my colleague, the Minister for Police, so that we can investigate the suggestions that have been put forward.

In the meantime, I would like to make one or two observations. First of all, I am very pleased that Mr. Lavery made the suggestions he did; I am pleased to know too, that he can change his mind. His attitude this afternoon, of course, was not the attitude he adopted when the Industrial Arbitration Act Amendment Bill was before the House in 1958. It will be remembered that on that occasion he and every member of the Labor Party opposed the idea that a restriction should be placed on the number of taxi plates that should be issued in any one year.

I have had the opportunity to refer briefly, and somewhat hastily, to the debates that took place in 1958. We thought at that time that the Industrial Arbitration Act was not the correct statute under which the taxi business should be administered; and now we find an entirely different approach to the question, because Mr. Bennetts says he thinks it should come under the Transport Board.

The Hon. F. R. H. Lavery: I think he said it should be administered by the Transport Trust.

The Hon. A. F. GRIFFITH: That is another approach. However, it is worthy of note that Mr. Lavery supports the move now being made and, I think, being made with some justification, because the restriction in respect to the number plates that should be issued, which was imposed by Parliament in 1958, has proved to be very satisfactory from the point of view of the taxi industry itself. If the taxi people complain, justifiably or otherwise, about the treatment they have received at the hands of my colleague, the Minister for Police (Mr. Perkins), my heavens they had justifiable reason to complain at the treatment they received prior to his time, because there was an indiscriminate issue of taxi licenses to a point where the taxi drivers were really crying in the wilderness, and complaining that nobody would do anything to help them.

I remember it only too well, because my colleague, Mr. Logan, Mr. Jeffery, and I, as a committee of three burnt the midnight oil on many occasions over this matter. Members will recall that I moved for the appointment of a Select Committee to inquire into the taxi position as late as the 28th November, 1958, and we burnt a lot of midnight oil trying to iron out the problems confronting the taxi industry. We were able to resolve many of the difficulties, and I think the committee did a good job on that occasion.

Mr. Bennetts supports a flag-fall of 2s. Between the time when I sit down and the time when the Bill is dealt with in Committee, he can frame an amendment along those lines and let the Committee deal with it. But I say to him also that the restriction on the number plates was imposed as a result of the investigations made by the Select Committee which this House saw fit to appoint in 1958.

In respect to clause 8, on page 7 of the Bill, which has been referred to, I would point out that section 47 of the Traffic Act is the section covering the regulation-making power, and it goes more than through the alphabet—

The Hon. H. C. Strickland: On two occasions.

The Hon. A. F. GRIFFITH: —in respect of the regulations which may be made under the Act. As regards Mr. Bennetts' comments on taxi owners being directed to install taxi meters, the Bill distinctly states—

> Prescribe special provisions for the control, operation and movement, in any prescribed area—

I do not think the honourable member need have any fear about that, because the area has to be prescribed; and, although I agree, of course, that regulations are put into operation while the House is not in session, they can be disallowed when the House next meets. I can remember making complaints, in times gone past, about similar matters, but in reverse. However, the Bill states that the area has to be prescribed.

Mr. Lavery suggested that the word "may" be altered to the word "shall." I would like him to have a good look at that matter before he does anything about it, because I do not think the amendment

would achieve anything. The word "may" is in the Bill so that discretion can be used in the case of applications for transfers. The honourable member said that he had sufficient faith in the Commissioner of Police to know that he would not make recommendations of an unworthy nature. Therefore I suggest to him that he leave the wording of the Bill as it is and let us see how it works out.

I am obliged to say to the honourable member that the restriction in the Bill on the transfer of taxi plates is in line with the action taken by this House previously, which, of course, I do not seek to criticise. At the time I bitterly opposed it by saying it could cause hardship to certain people; and I am pleased to see that on this occasion the honourable member has changed his mind in the light of experience in the industry. What I said when I was on the other side two years ago has come to pass, at least in one particular case; and thank goodness from our experience we have gained much wisdom in this matter; and I am glad to have the honourable member's support on this occasion.

The only other comment I would like to make is in connection with the provision of the regulation-making power in respect to exhibiting notices, etc. That also can be the subject of disallowance by either House of Parliament; because if, after experience, it is found to be unsuitable, it is competent for members in either House to disallow the regulations concerned.

The Hon. H. K. Watson: The flag-fall question is really one for regulation too, is it not?

The Hon. A. F. GRIFFITH: Yes, I think it is. I do not think the Bill says anything about a flag-fall. It is a question for regulation.

The Hon. G. Bennetts: Yes.

The Hon. A. F. GRIFFITH: I thank Mr. Watson for that interjection. I have also received some communications from the president of the Taxi Owners' Association. I am conscious of the difficulties from which these people suffer, because over a period of years I have taken a keen interest in their activities. However, in respect of the charge that is made, I would like to say that my colleague, the Minister for Police, will not meet them; and I have here a letter which says—

> The Minister has agreed to some of our proposals and we are satisfied with most of the suggestions he has put before Parliament.

The Hon. F. R. H. Lavery: What date is that letter?

The Hon. A. F. GRIFFITH: It is dated the 7th October, 1960, which is not so long ago.

The Hon. F. R. H. Lavery: Outside this door different things are said.

The Hon. A. F. GRIFFITH: I am reading a letter in which it is said that they are satisfied with most of the suggestions.

The Hon. F. R. H. Lavery: Do you know that you cannot take a taxi up here without the driver telling you all his worries?

The Hon. A. F. GRIFFITH: I believe that is so; but the publicity given to the taxi drivers' worries has considerably diminished since the Select Committee was appointed. I do not think there is any point in labouring this matter. I am grateful to members for the support they have given to the Bill. I will discuss the suggestions that have been made with the Minister for Police, and if any change in policy is contemplated there will be an opportunity, in Committee, to get members' views on it.

The Hon. G. Bennetts: We always like to help you.

The Hon. A. F. GRIFFITH: I am very grateful for and I am always appreciative of the help that is given. There are times when I need a lot of it.

**Question put and passed.**

**Bill read a second time.**

## DAIRY CATTLE INDUSTRY COMPENSATION BILL

*Second Reading*

Debate resumed from the 13th October.

**THE HON. G. C. MacKINNON** (South-West) [5.43]: As the Minister told us when he introduced the Bill, it is one that has been asked for by and has the support of the Farmers' Union, and, indeed, a great majority of the butterfat producers. As in most Bills of this type, of course, it is necessary for it to be in operation for about a year before we can really iron out all the small details. In essence, it is an insurance measure under which a certain amount is contributed by the producers, and the Government matches those contributions. However, we cannot be quite sure whether the compensation is equitable or whether the amount of contribution is sufficient until 12 months have elapsed and we have some idea of the incidence of the disease covered—in this case, T.B. and lumpy jaw. I am not sure of the correct pronunciation of the scientific name for lumpy jaw, but I think everyone knows it by that name.

The Hon. L. A. Logan: I tried it the other night.

The Hon. G. C. MacKINNON: As I say, at the end of twelve months we will have a much better idea how these things work out, and whether they are equitable to all concerned. As the Minister said when introducing the Bill, the men concerned with the wholemilk industry often obtain stock from the butterfat areas.

Many butterfat producers breed cattle as a sideline to supplement the herds of the wholemilk industry.

It is the policy of the Milk Board to expand all the time; and this means new personnel; and we have people who heretofore were engaged in the production of butterfat transferring gradually to wholemilk. This will continue as the population expands and the people begin to drink more milk, with a consequent increase in the consumption of milk. It is desirable, therefore, that we should eliminate these diseases from the herds if possible. The handling of a butterfat herd is similar to the handling of a wholemilk herd in that the cows are kept fairly close together. We find different animals, at times, feeding out of the same stall and drinking out of the same troughs. They are more restricted in their movements than are beef cattle, and therefore the incidence of contagious disease is likely to be higher in their case than with beef cattle herds which range freely and drink out of creeks, and so on.

It is important, however, that we limit the spread of activity of the diseases covered in the Bill. Over the weekend there was quite a well-attended meeting of farmers engaged in this activity. At that meeting one or two queries were raised, which I will pass on to the Minister, and which perhaps he might answer when replying to the debate. One of the queries that I have found hardest to answer was that of a particular farmer who said he voluntarily subjected his herd to tests covering these particular diseases, and that as a result he had been guaranteed that his stock was completely free from the diseases. He has covered the costs of the tests himself, and therefore he knows he will not be up for any possible replacement. He will not be having any stock destroyed; and yet under the Act—it being a compulsory measure—he will have to pay the same amount as people who have not taken this step.

The Hon. G. Bennetts: It is to his own advantage, to some extent.

The Hon. G. C. MacKINNON: He knows full well he will not be the recipient of any compensation at all. Mr. Bennetts interjected, and said that, to some extent, it is to his advantage. The question was raised, however, whether any particular consideration should be given to such cases. It is not an isolated case, because there are bound to be others. That is the only case I know of; and it leads me to my second query: Why, in this particular case, are the provisions in the entire Act to be compulsory, whereas in the case of the wholemilk producer they are voluntary?

Perhaps the Minister could answer that when he replies to the debate. I understand that under the Act a compulsory levy is provided for. Naturally the inspections are compulsory. There is also the fact that contributions from the disposal of the carcases, plus the penalties, go into the compensation fund.

The Act covering diseases in the wholemilk industry is slightly different, in that contributions are not compulsory; and in some cases compensation is not paid. Inspections, of course, are compulsory, because it would be useless having inspections carried out on some farms and not on others. I am sure there is an answer to the queries I have raised, and I hope the Minister will give us his official reply when he closes the debate.

The only other query raised at the meeting was as to how the carcases are to be disposed of. I understand it has been said that carcases referred to in the Milk Act are sold to one particular buyer who disposes of them. As was mentioned the other night, lumpy jaw affects only the head but the carcase could have tuberculosis in, say, the foot only, and the rest of the carcase could fetch a reasonable price. The Minister will no doubt clarify this point later in his reply, and tell us whether the same principle will be followed in this legislation. The meeting to which I referred was in favour of the legislation; and, as I said earlier, while it is a safeguard to the health of the people of this State it is in essence an insurance measure and, like all such legislation, it must be subject to review and, perhaps, amendment as it gets under way, to see whether the fund grows too fast, and whether, as a result, contributions cannot be cut, and so on. I commend the Bill to the House and trust the Minister will answer the queries I have raised.

**THE HON. J. G. HISLOP** (Metropolitan [5.52]: There is no doubt whatever that the extension of the testing of cattle to the entire southern portion of the State is vitally necessary, because there has always been a possible loophole for cattle, infected by T.B., to come into the milk-producing areas. I do not think anybody could query, in any way, the introduction of such a measure. I would, however, like to query the manner in which the Bill has been drawn up.

When introducing the measure the Minister said its purpose was to found a fund for the payment of compensation to the owners of diseased dairy cattle, slaughtered as a result of compulsory testing for tuberculosis of cattle outside the wholemilk scheme. That is not strictly true, because the question of actinomycosis has been included in the Bill, and, as a result, it makes the measure somewhat difficult to follow.

If we turn to the word "disease" we find it includes not only tuberculosis, but also actinomycosis, and any other disease which may be proclaimed by the Governor from time to time. One may be foot and mouth disease, while another could be pleuro-pneumonia. So the Bill is not entirely to

make a fund for compensation because of the elimination of tuberculous cattle. I wonder whether the measure could not be redrafted in order to meet the conditions to which I have referred; because if we look at clause 8 we will find there are two factors mentioned in the first subclause which states—

> The owner of any dairy cattle shall when and as often as he is requested by the Chief Inspector so to do submit the dairy cattle to inspection—

Clause 8 (2) provides that the Chief Inspector shall apply or cause to be applied a tuberculin test to each animal at such intervals as he considers necessary. We then find that clause 9 says, "When after a test has been applied," and so on. The only test mentioned so far in the Bill is that of testing for tuberculosis; but actinomycosis might be found after a separate test and a bacteriological examination for lumpy jaw.

The Hon. L. A. Logan: Clause 8 does not confine the inspection to tuberculin. It is an open inspection.

The Hon. J. G. HISLOP: If the Minister will read clause 8 (2) he will find that the Chief Inspector shall apply a tuberculin test; whereas in clause 9 the wording is "When after a test has been applied," etc. Does that mean after the test for tuberculosis, or a bacteriological examination for actinomycosis or other disease to be proclaimed, has been applied? The word "test" is not defined; and it seems to me that the clause might be reworded to provide that, after an examination, if the animal has been found to be suffering from the disease outlined, then certain things may happen. I feel that the initial idea behind the Bill to control tuberculosis is a good one; but it gets mixed up with other diseases, and I think a little reconstruction of some of the clauses by the department would make the Bill much more reasonable. Personally I think the measure could do with a good deal of redrafting, and the word "disease" could be applied in much better terms.

If we stick to the word "test" it looks as if we will stick to tuberculin test, which will mean that according to clause 9 tuberculous cattle will be destroyed; whereas the Bill gives authority to destroy any animal suffering from any of the diseases included in the list of diseases in the definition, which may be tuberculosis, actinomycosis, or any other declared disease. I doubt whether the question of test could be applied to a bacteriological examination of an animal suffering from or acquiring a virus disease. I suggest to the Minister that many difficulties could be avoided if some rewording were applied to clauses 8 and 9 of the Bill, which is a very wise one. I would be quite happy to help the Minister redraft the clauses to meet the requirements I have mentioned.

**THE HON. G. BENNETTS** (South-East) [6.0]: I support the Bill for this reason: Many years ago on the goldfields, whilst I was a member of the local governing body, dairy cattle were not inspected. At that time a stockowner, who has since passed on, used to bring in a cow from his station for home purposes, and one of his daughters became ill. The doctor blamed the milk from the cow. When the stock inspector arrived he found this particular cow, along with a couple of others from the same herd, to be infected with tuberculosis. Several cows on the goldfields were found to be infected and they were destroyed. I think they were destroyed at the abattoir, but I am not sure about that.

Therefore, anything we can do to guarantee that the people will obtain healthy milk is a step in the right direction. Even if owners are not to obtain full compensation, the amount prescribed is a help; and perhaps later on we can go further.

**THE HON. W. F. WILLESEE** (North) [6.2]: I find this Bill a most interesting one and certainly a praiseworthy one in what it seeks to do. The proposal to levy a fee on dairy cattle and to augment a fund on a pound for pound basis by the Government, in order to prevent the utter financial loss of a herd to a person in the industry, certainly has my approbation; and I applaud the Bill.

It seems that the Bill in draft form, at any rate, is well accepted by all people competent to give an opinion on its merits. Such people as officers of the Department of Agriculture, representatives of the dairy section of the Farmers' Union, and the Commissioner of Public Health have all indicated their being in favour of this legislation. The queries brought forward by Dr. Hislop are worthy of consideration.

In reading the Bill in its entirety, I think it is fairly obvious that the intention is first of all to deal with the T.B. issue; and then later, as the fund becomes established and can meet further commitments, to move into the realm of other diseases. Even if the verbiage of the Bill does not make that clear, I think it would be the intention of the measure. As there have been several speakers on this issue I merely rose to support the Bill and express the hope that the programme will go as planned, and that in the course of time T.B. among cattle will disappear from our midst.

**THE HON. H. K. WATSON** (Metropolitan) [6.4]: This Bill has the laudable object of providing a fund to compensate the owners of cattle whose herds or animals have, for the common good, to be destroyed because of disease. The fund is proposed to be raised by a levy of 2d. in the pound on sales of butterfat and by a

contribution by the Treasurer, apparently from Consolidated Revenue, equal to the amount raised by the levy on the sale of butterfat.

The Hon. L. A. Logan: Not 2d.; three-tenths of a penny in the pound.

The Hon. H. K. WATSON: The Stamp Act Amendment Bill reads—

> For every £1 and also for any fractional part of £1 of the amount of the purchase money in respect of any butterfat sold . . . 2d.

The Hon. G. C. MacKinnon: Pound weight or pound money?

The Hon. H. K. WATSON: Pound money.

The Hon. G. C. MacKinnon: You have to specify it because it varies.

The Hon. H. K. WATSON: I notice that the proposal has to be covered in two Bills; that is, the Bill before us and a Bill to amend the Stamp Act. In the Bill before us it is provided that there shall be charged for the use of Her Majesty upon any instrument specified under the heading "Statements on Sales of Butterfat" the stamp duty specified in the Stamp Duty Act. In order to collect that amount, the Bill before us provides that with respect to every sale of butterfat a document shall be written out. Whether the goods are paid for or not, the purchase money payable in respect of that sale shall be stated on the document.

Then we find a rather elaborate amendment to the Stamp Act which adds to the schedule a provision that stamp duty shall be payable under that Act on the documents. Another novel feature is that whereas up to date all stamp duties payable under the Stamp Duty Act are simply a stamp duty, this Bill provides that the stamp duties in respect of this particular subject shall be specially embossed, endorsed, or denoted as butterfat stamp duty. We have been told that the reason for these rather elaborate refinements is on account of possible constitutional difficulties.

It seems to me that the constitutional difficulties are rather serious. As you know, Sir, section 90 of the Commonwealth Constitution provides that the imposition of excise duties rests exclusively in the power of the Commonwealth Government. Expressed negatively, that means it is unconstitutional and unlawful for a State Parliament to impose an excise duty. Over the years a number of cases have been tested in the High Court on this rather vexed and obscure question of whether levies imposed by State Parliaments in varying circumstances have or have not contravened section 90 of the Commonwealth Constitution. In most of the cases the position is that the court has held that the legislation is invalid.

The decisions are conveniently summarised by H. S. Nicholas in his book *The Australian Constitution* at page 144. The considerations which emerge from an examination of these cases may be summed up in this way: That in every case the first requisite is to ascertain the real nature of the tax; and it does not depend upon the name given to the tax or the levy in the taxing Act, but depends upon its operation and effect as gathered from the language of the Act itself.

Other cases have gone on to point out that a tax is really an excise duty within the meaning of section 90 of the Commonwealth Constitution if it is imposed on or in relation to the sale of goods. Thus, there is a series of cases where attempts not dissimilar to the one now before us to impose a levy on or in connection with the sale of goods have been declared invalid.

For example, there is the case of the Commonwealth v. South Australia where the Act in question was described as an Act to impose a tax upon the income of vendors of motor spirit and for other purposes. It imposed a tax of 3d. per gallon on spirit sold for the first time in South Australia, wherever its place of origin. It was held that the tax was not an income tax; it was an indirect tax which the vendors would pass on to the consumers—it was a duty of excise, as that term is used in the constitution; and the whole Act was declared invalid as the provisions relating to spirit produced in South Australia could not be severed from spirit imported from elsewhere.

There is another case which many members in this Chamber will probably recall. In 1927, in the stirring days of John T. Lang, the New South Wales Government imposed a tax upon newspapers, which resulted in the case of John Fairfax & Son v. New South Wales. That related to a tax on newspapers produced and sold within the State. It was contended that newspapers were not goods; and therefore the tax was not a duty of excise; but this contention failed, and that Act was declared invalid.

*Sitting suspended from 6.15 to 7.30 p.m.*

The Hon. H. K. WATSON: The next case in the list I have been discussing is the one known as the Flour Acquisition Case, which was the case of the Attorney-General for New South Wales v. Homebush Flour Mills Ltd. This was a case where the New South Wales Government attempted to impose a tax on flour in the disguise of a scheme of expropriation and resale. A device was conceived whereby the Government purchased the flour, or commandeered it, from the miller, at a certain price and then resold it to him at 30s. in excess of that price. The court held that a tax of £1 10s. per ton was imposed on the miller; that it was an

indirect tax and a tax imposed on a commodity; that it was a duty of excise, and therefore invalid. I would have thought that of all the efforts to get around the obstacle, that was a pretty good one; but it was not successful.

Then there was Parton's case in 1949 where a contribution of a fraction of a penny per gallon was imposed on suppliers of milk and owners of milk depots. The fund so obtained was applied for the purposes of the board and the administration of the board which was regarded as beneficial to what may loosely be described as the milk industry. But it was held that the board performed no particular service for the dairyman or the owner of the milk depot for which his contribution may be considered as a fee of recompense. In that case, too, it was held, firstly, that the levy was a tax; and, secondly, that it was a tax in the nature of an excise as being related to the sale of milk.

Perhaps one of the most startling cases was a recent Victorian one in the High Court when the liquor licensing fees—the 8 per cents.—were challenged as being void under section 90 of the Commonwealth Constitution. The High Court, by a four to three majority, decided that it was a fee and not a duty of excise. I understand that an appeal has been lodged with the Privy Council, and that at this particular moment, the Privy Council is settling down to hear the appeal.

Therefore, it appeals to my peculiar sense of humour when I read this provision in the Bill—that any person who is concerned in any contrivance or device with intent to escape this butterfat stamp duty is liable to a fine of £100 or imprisonment for six months—because it occurs to me that it is just as well there is not a similar proviso to section 90 of the Commonwealth Constitution to the effect that any State Parliamentarian who attempted to get around section 90 of the Constitution would be liable to a similar penalty, otherwise I think we would all think seriously before we voted for this Bill.

The Hon. F. J. S. Wise: On a daily rate!

The Hon. H. K. WATSON: From what I have said, it will be gathered, that while I admire the ingenuity of the draftsman for the manner in which he has presented this proposal to us, I have grave doubts as to whether it would withstand a challenge in the court. I wonder whether some other method could not be devised; because, after all, this proposal is really in the nature of an insurance against disease in animals; and perhaps it could be that, in much the same way as we have a pool to cover third party risks, and a pool to cover other risks, it might be possible to provide a similar pool—an insurance fund—of some nature; and further provide that a person should not be permitted to own cattle unless they were licensed or insured against disease. The fund could then revolve as a real insurance fund rather than as a contribution, virtually, in the first place to Consolidated Revenue, and then as a payment out of Consolidated Revenue.

It does seem to me that any proposal starts behind scratch if the money is levied for the Crown. Perhaps we could have some scheme, as I said, whereby a person could not own cattle unless he had them insured against disease; and then an insurance fund could be set up, the premium being 2d. in the pound. This would be similar to the premium on workers' compensation which is so much in the pound on one's annual wages bill. If this were done, it might not be beyond the bounds of possibility to evolve a scheme which perhaps would have a better chance of withstanding the constitutional difficulty than I am inclined to think this one has.

**THE HON. A. L. LOTON** (South) [7.39]: I am sorry that the whole of the provisions of this Bill do not apply to all cattle in the South West Land Division. In the past I have seen two Bills dealing with cattle compensation introduced into Parliament. Both Bills were withdrawn as a result of opposition in certain quarters and for reasons that were known—especially in the case of the latter measure—only to the Minister.

I am somewhat concerned with this Bill because I fail to see that the contributions can stand up to the calls that could be made on the fund, because "dairy cattle" means any cattle used by a person who supplies cream to a factory. Even if a person has only a few cattle, but has a stamp duty affixed to a receipt, such cattle come within the scope of this Bill; excluding, of course, the cattle which come under the provisions of the Milk Act.

During the flush periods of the season in the agricultural areas, quite a few people have two or three cows which they milk. They send the cream to the factory; and I maintain that therefore they come under the provisions of this Bill. Because of this all cattle on their property are subject to the payment of compensation. I say this because in the Bill "dairy cattle" means a cow, ox, steer, heifer, or calf kept for dairying purposes. Therefore, those two or three cows which might supply only 10, 15 or 20 cans of cream for which a contribution of 2d. in the pound value is made, will not be the means of a very big payment. The farmer—and I call him a farmer because he is not really a dairy farmer—could have stock to the value of £5,000, £6,000 or more, but would still qualify under the definition in the Bill.

I do not think the fund could possibly stand up to the number of condemned cattle which could call on the fund for payment. I do not know what other members think about this matter, but I fail to see that the small contribution, plus that of the Government could stand up to that call made upon it.

The other point which I feel is wrong at this stage is that besides the two diseases named, other diseases could subject to a proclamation by the Governor, be introduced. I feel we should deal with the two diseases with which we are concerned this time—T.B. and the disease known as lumpy jaw.

A Bill was introduced last year, dealing with foot and mouth disease, and no trouble was experienced with it because it was a measure dealing with a specific disease. The Milk Act deals with T.B. and diseases as defined; also the diseases are defined under the Pig Industry Compensation Act. I feel that the same situation should apply in this case. We will, as the Bill stands, be making a call of a very small amount to meet an unlimited number of diseases. Who can tell what the fund could be called on for in the next few years?

A farmer could be informed by the Chief Veterinary Surgeon that his stock is suffering from a disease which is not defined in the Act. Therefore, until such time as the disease is included by proclamation, he would not be entitled to any compensation.

I had intended to say more about these and other points, but I know the Minister wants to proceed quickly with the measure. However, I hope he will reply to the matters I have raised.

**On motion by The Hon. J. M. Thomson, debate adjourned.**

## STAMP ACT AMENDMENT BILL (No. 2)

*Second Reading*

Debate resumed from the 13th October.

**THE HON. W. F. WILLESEE** (North) [7.45]: The Bill is so closely aligned with the previous one that I did not think we would be going on with it at the moment. I feel that instead of having what is provided in the measure, it would be better to have something on the lines indicated by Mr. Watson. It would be a good idea to have the charge, together with the fee from the Government, paid into a central fund. That would be a more workable proposition than by paying the money into Consolidated Revenue.

I do not oppose the Bill, but I hope the Minister will give serious thought to the suggestion that has been made. An amendment along the lines suggested by Mr. Watson would resolve the obvious doubt that has been raised. It would be a pity if this well-intentioned piece of legislation were to fail because of a technicality.

Whilst I repeat that I support the Bill, I would like to see more thought given to the other measure before this one is placed on the statute book.

**On motion by The Hon. L. A. Logan (Minister for Local Government), debate adjourned.**

## LOCAL GOVERNMENT BILL

*In Committee*

Resumed from the 13th October. The Chairman of Committees (The Hon. W. R. Hall) in the Chair; The Hon. L. A. Logan (Minister for Local Government) in charge of the Bill.

The CHAIRMAN: Progress was reported after clause 531 had been agreed to.

**Clause 532 put and passed.**

**Clause 533—Councils must adopt valuations:**

The Hon. H. K. WATSON: This part of the Bill is one of the most critical inasmuch as it relates to rates and ratable property. A lot of time has gone into the preparation of the Bill as a whole, but I feel that the local authorities would have been able to carry on if the measure had not been introduced.

A question worthy of great consideration is not so much that of the technical constitution of municipalities and road boards, but that of a review of their financial structure. I have read an interesting circular published by the *Australian Council of Government Associations* on the case of local government for a new financial deal; and I commend the contents of the circular to the serious consideration of members. The substance of what this circular has to say is that there has been no material change in the basis of local government finance since its inception 100 years ago. In short, then, local government today is expected to provide for a new world with the financial tools of an era that is gone, placing an intolerable burden on the property owner who, under the present system, is virtually called upon to finance all local government activities irrespective of the nature and extent of the service given. That is a theme on which I have touched more than once in recent years.

When this question was discussed a year or two ago, I raised the question whether a straightout levy—a poll tax—on all the inhabitants within a municipality might not be more appropriate than a tax on property. Then the Local Government Association itself suggested a remedy which, to my mind, has a lot to commend it: It is that in just the same way as the State

Governments derive grants and reimbursements from the Commonwealth Government out of the direct taxes and other levies that we all pay, so ought the local governing authorities have a share of the revenue collected by the Commonwealth Government.

It seems to me these are matters which are worthy of consideration and which, if satisfactorily resolved, would produce a result much more lasting than any benefits which can be expected from the mere redrafting of the legislation relating to local government.

I wish to make a few observations on subclause (4) which provides for alternative valuations or ratings either on the unimproved value of land or on the annual value. In view of the utter confusion that has arisen under the water supply legislation with regard to annual values, I am not sure that the option provided by the Bill of allowing a municipality to rate on the unimproved value or on the annual value, is altogether for the best. I have given a lot of anxious thought to this question, and more and more I am inclined to the view that if all rating were on the unimproved value of land, it would provide the most equitable, workable, and satisfactory system.

The Hon. F. D. Willmott: Including agricultural land?

The Hon. H. K. WATSON: Yes; agricultural land as well—all land. There would be difficulties, but I think the question would resolve itself into that of striking a rate on the unimproved value which would produce the requisite amount of revenue.

Subclause (4) (b) is in the precise terms of the Metropolitan Water Supply, Sewerage and Drainage Act. Those of us who have been following the pronouncements in connection with that Act have found—and I think members would find that similar circumstances would apply with respect to this measure—that having ascertained the rent at which the property may reasonably be expected to be let, the amount of all rates and taxes must be deducted—not an estimate of the rates and taxes, but the actual amount. But we know that that provision in the law has never been observed. The valuer simply makes a rough estimate—yet the Act is quite clear. Having deducted the rates and taxes, a further 20 per cent. has to be deducted for repairs, insurance, and other outgoings.

We all know that municipalities, no less than the Water Supply Department, having struck that figure which is technically the true annual value within the definition of the subclause, have then, for some reason quite impossible to imagine, in quite an arbitary manner deducted a further 25 per cent. or 30 per cent.; and that final figure has become what is technically the net annual value for the purpose of rating.

In the result we find that the rate notice sent to a resident of the metropolitan area does not show the true and fair net annual value within the meaning of the Act. It is safe to say that the average rate notice is very much lower than it should be; and that it shows as the net annual value an amount much lower than the true annual value calculated in accordance with the Act, with the result that the rate of tax on the annual value is much higher than it ought to be.

This is a serious matter, because not many years ago residents in a certain district of the Perth City Council had their values and their rates substantially increased; and increased, as it appeared to me at that time, haphazardly and unjustly, because it was found that a house on one side of a street had a different value from an identical house on the other side. Yet, when those ratepayers, appealed against the rate they received from the authorities the bland reply, "Your annual value is only so much. Do you mean to tell us that you would let the property for less than that?"

It seems to me that the annual value, no matter how high it is, should be a fixed amount for both municipal and water rating. If that were done, we might get some commonsense applied to our rating. I mention that because in considering another clause, which we will be dealing with very shortly, there is provision for the rate to be as much as 10s. in the pound on the annual value as against an amount of 2s. or 3s.—if I remember rightly—which has been provided in the Act for so many years.

The Hon. L. A. Logan: No.

The Hon. H. K. WATSON: What is the amount?

The Hon. L. A. Logan: It can go up to 10s. in the pound. I will give the honourable member the figures later on.

The Hon. H. K. WATSON: I will be pleased if the Minister will supply them. The rates should be materially depressed and the annual value kept up; otherwise, under the Municipal Corporations Act a ratepayer could find himself in exactly the same position as many ratepayers find themselves under the Metropolitan Water Supply, Sewerage and Drainage Act. One may find that, because the rate is so high as a result of the low annual value, the annual value may be brought up to its correct figure and the rate will be doubled because of the high valuation. I would suggest to the Minister that in view of the great confusion that has occurred with the water rating and, inasmuch as the provision in this subclause is identical with a relevant provision in the Metropolitan Water Supply, Sewerage and Drainage Act, the provision in the Bill should be redrafted for the purpose of further consideration.

If we are going to work on the principle of striking the annual value and then reducing it by 25 or 30 per cent., as has been the custom, there should be provision in the Act to do that; and it would then be lawful. However, there is no such provision at the moment, and I believe that we should take the net annual value and assess on that figure; or, in the Bill, we should provide, for a reduction of that figure.

That leads me to a discussion of the omission of a provision which this Chamber agreed to when it was included in a similar measure that was before us last year. Members may recall that the Committee inserted a clause to provide that for the purpose of rating factories, the rating should be struck on one half of what otherwise would have been the net annual value. That illustrates the principle I am trying to explain.

If a concession is to be made in the amount ultimately payable, it should be expressed in the Act that the amount shall be reduced by a certain percentage. If the clause remains in the Bill as printed we will have confusion similar to that which has occurred with the water rating.

The Hon. L. A. LOGAN: In regard to an approach by the local authorities of the Commonwealth Government, I think the honourable member must take into consideration that Western Australia is entirely different from all the other States in regard to their local government rating. This approach to the Commonwealth Government stems mainly from the Eastern States. If we agreed to what Mr. Watson suggested; namely, that we should allow the Commonwealth Government to pay back to the local authorities money received from taxation, we would receive an amount well below that which we are receiving at present. It is difficult enough for any State Government to receive money back from the taxes it pays, without any local authority making a similar claim simultaneously.

I appreciate the suggestions the honourable member has made in regard to the Water Supply Department. They have been considered, but it was thought better to leave the Bill as it is until the Government decided what the rating shall be. It is no use putting in the Bill a certain provision now, and then, in a month's time, decide what the rating shall be, and insert something different. Therefore, I suggest that we should leave the wording of the clause as it is for the time being.

There is something in Mr. Watson's suggestion that we should obtain the true valuation and then work on 50 per cent. or 75 per cent. of it. I will certainly have that suggestion investigated; but until the policy on the other matter is defined, we should leave that clause as it is and look at it from that angle because it would be easier for everyone, and it would be legal. That is the reason why it has not been altered. I thought about it and discussed it, but until such time as the Government decides on a proper basis for water rating, it would be better to leave the clause as printed.

The other points, dealing with the amount of rating that is available, will be dealt with later on when I shall quote to the Committee figures in connection with the rates which are charged today.

**Clause put and passed.**

**Clauses 534 to 539 put and passed.**

**Clause 540—Ratebook. Sixteenth Schedule:**

The Hon. H. K. WATSON: I point out to the Committee, and to the Minister in particular, that this clause provides that the annual value shall be that which is assessed from time to time by any valuer appointed by the council, or it may be the annual value supplied by the water supply authority. Therefore, the Committee will be fully aware of what it is doing if it passes this clause.

**Clause put and passed.**

**Clauses 541 to 547 put and passed.**

**Clause 548—Council to impose general rate:**

The Hon. R. C. MATTISKE: I move an amendment—

> Page 455, line 18—Delete the word "three" and substitute the word "two."

Following on the remarks made by Mr. Watson, I consider that the amount of rating which a local authority may be permitted to levy on property owners, under this provision, is far too lavish. At present, the maximum rates permitted to be charged under the Municipal Corporations Act—capital values are used in this instance—is 6d.; and, under the Road Districts Act, it is 4d., although there is provision that it can be 6d. in certain rural areas, with the Minister's approval. The increase in rating from 6d. to 3s. is too great.

Valuations are brought up-to-date every three, four or five years at the most, and if the values of properties are rising all the time, we should pay careful regard to the maximum amount of rating a local authority will levy. I hope the Committee will limit the maximum amount of rating on the unimproved value basis to 2s. instead of 3s. as is provided in this clause.

The Hon. L. A. LOGAN: I promised to supply to the Committee some figures in regard to present rating by local authorities. Under the Municipal Corporations Act the general rate on the annual value could be 2s. 6d.; loan rate 1s. 6d.; street lighting 6d.; health 1s.; sanitary 8d.; fire brigades—enough to meet the commitment; libraries 2d.; water rates 3s.; making a total of 9s. 4d. On the unimproved capital value the rates could be—general 6d.; loan 4d.; health 3d.; sanitary 2d.; noxious

weeds 2d.; libraries ¼d.; making a total of 1s. 5¼d. Those are the rates that would be made under the Municipal Corporations Act.

Under the Road Districts Act, the rates, based on the annual value, would be—general 2s.; loan, no limit; street lighting 3d.; health 1s.; fire brigades—enough to meet the commitment; libraries 2d.; reserve funds 1s.; making a total of 5s. 1d., plus loan rates of 3s., making a grand total of 8s. 1d. Under the unimproved capital value the items are as follows:—

> General 9d, loan no limit, street lighting ¼d., health 3d., sanitary 2d., vermin 2d., noxious weeds 2d., fire brigades—enough to meet commitment, libraries ¼d., reserve funds 3d.

That is a total of 1s. 9¾d. If we add the 1s. 9¾d. and the 1s. 6d. we have a total of 3s. 3¾d. That is the maximum rate under the existing legislation, whereas the maximum proposed under the Bill is only 3s. The general rate applies to all the items I have mentioned. I draw attention to the provision in clause 547(7) on page 454, one part of which states—

> —and may include the rate necessary to be imposed in order to meet that expenditure as part of its general rate imposed under this Act.

If we get to the stage where the maximum loan rate is imposed—and that is ten times the income of the board for any one year—we will be rated at 11s. 1d. under the annual valuation method, and 3s. 3¾d. under the unimproved capital value method; whereas the Bill provides for a maximum of 10s. in the first case and 3s. in the second.

Mr. Watson referred to the pamphlet which stated that local authorities in Australia had approached the Commonwealth Government for financial assistance. Yet the amendment before us seeks to reduce the revenue of the local authorities in this State, by reducing the maximum of their loan-rating powers. There is a safeguard against local authorities rating too high, and that is through the ballot box. A local authority has to obtain the approval of the Minister before it can impose a rate above the existing rate, should it not be able to carry on under the present rating.

The Hon. J. D. Teahan: If local authorities cannot exist on the present rating, how will they be able to exist on the maximum rating permitted under the Bill?

The Hon. L. A. LOGAN: I should have used a qualification when I made the last remark; that is, if the local authority is using its maximum loan rating. Of course, none of the local authorities in this State is doing that. We should leave this matter of rating to the common sense of the local authorities. No doubt they will not go beyond the rate which the people in the district can afford to pay. I have not heard of a local authority being voted out of existence because it rated too highly.

Reference was also made by Mr. Watson to the unimproved capital value as compared with the annual value. He suggested it would be better to stick to the unimproved capital value right through. This point has been widely discussed not only by members here, but also by local authorities in this State. They have requested that they be permitted to retain whatever principle they choose to adopt. Some believe in the unimproved capital value while others believe in the annual value.

As Minister, I try to give as much autonomy to local authorities as possible. They should have the right to adopt whatever system they consider to be the best. I ask members to oppose the amendment.

The Hon. H. K. WATSON: The Minister said that the amendment is an attempt to reduce the revenue of local authorities. I refer again to the complaint contained in the pamphlet which states—

> You are placing an intolerable burden on the property-owner who, under the present system, is called upon to finance all local government activities, irrespective of the nature and extent of the service given.

This is a question of easing the rate; it is certainly one of easing the amount—and certainly it is not one of increasing the amount which at present is paid by the ratepayer.

Referring to the figures which the Minister has just given to illustrate that existing rates could be up to 10s. in the pound, I suggest these figures demonstrate the futility of including municipalities and roads boards—both metropolitan and country—all under one Bill. In the list he read out he included 3s. in the pound for water rates; but that rate has nothing to do with the metropolitan area. In the metropolitan area water rates are paid separately.

Here is the danger: The Minister says that at the moment the maximum rate is 10s. in the pound of which 3s. is for water. If we agree to the clause, although the 3s. water rate has nothing to do with the metropolitan area, we will be giving the local authorities the right to rate upwards by another 3s., for no reason except that in some country districts local authorities do rate for water. When we determine what is to be the maximum rate, the permissible rates ought to be defined. In districts where water is rated separately, the permitted rates ought to be 3s. lower. Because in some country districts an amount of 3s. has to be paid for water rates, that is no reason for increasing the maximum permissible rate of the city by that amount of 3s. in the pound.

The Hon. F. R. H. LAVERY: In view of all the time that has been taken to formulate and present the Bill, it should be accepted by us. However, in the Melville area there is this peculiar situation: People who built modest homes in that district 10 or 12 years ago paid a small price for the land. I am also referring to the Applecross and Mt. Pleasant areas. There has been much development in those districts, and the local authority has been hard pressed to provide the necessary roads and services. In view of the high price which has been paid for land the people there are being rated out of the district.

The valuation placed on some of the properties has gone up out of all proportion. In one case reported in the newspapers last week a block of land on which there was an old hut was sold for £5,000. That same property fetched between £500 and £550 in 1948. In later years the valuation increased to £2,000; but if £2,000 is the correct value, the rates should not be raised proportionately—nearly four times. The people living in those districts are very perturbed, and as their representative in Parliament I must put forward their views.

The Hon. N. E. BAXTER: I ask the Minister how many local authorities in this State at present provide a reticulated water service? The last one I know of—which has been taken over by the Government—was at Quairading.

The Hon. L. A. LOGAN: I know of two—Busselton and Bunbury—local authorities that provide a water service. I do not know whether there are any others.

I was drawing attention to the maximum rate which could be imposed under the present set-up, and to the approach of the local authorities to the Commonwealth Government in respect of taxing the property-owner out of existence. I might point out that in the other States all the vehicle license fees are paid into a central fund; but in this State the local authorities receive their own. Therefore in this State the local authorites have two sources of revenue, as compared with one source in the Eastern States. That is the reason why they are complaining over there.

In some cases the owner of a vehicle is the owner of property, but there are many property-owners who do not possess motor vehicles. We should leave this matter of rating to the good sense of the local authorities. The remark of Mr. Lavery has no doubt given us much food for thought. I am aware of instances where £6,000 was paid for a block. One block in Mosman Park was sold for £6,000 and another one in Melville for £5,000. These prices set the basis for valuations. If the owner of a block, adjacent to one which fetched £5,000, desires to sell his block, he will ask for the same amount. Sales of blocks at such high prices are of no advantage to the purchasers who desire to establish homes on them. Even if the valuation is reduced by one-half, the proportional increase in the rate of the property is still very high.

This is a problem that is world-wide. The very same thing happened recently on the Gold Coast of Queensland. There was a considerable increase in the valuations in that area. I would point out that the Queensland land tax is considerably higher than ours. It is an Australia-wide trend, and nobody has been able to come up with a suitable answer to the problem. I think it is a foolish system; but a better one has not yet been evolved. Until it is, we shall have to accept the present system as common usage.

The Hon. H. K. WATSON: I am the last one to criticise, or to cast any restriction on members of our local governing authorities. On the whole, they do an excellent job. They do it voluntarily, and I admire them for it. Looking at the problem from a practical angle, I am appreciative of the fact that if a maximum is fixed, human nature being what it is the maximum tends to become the minimum, if not today, then tomorrow, or next year, or the year after.

Let us recall what has been going on in England for some time. There again it could be said that members of local authorities are well-intentioned citizens. But what do we find? We find that in some municipalities and local authorities, the rate is 24s. in the pound. One wonders how sane men can impose a rate like that. Property-owners, in order to extricate themselves from their predicament, find someone in the poorhouse and promise that person a fiver or a tenner if he will accept the gift of his property. The person receives the fiver or the tenner in cash; he also receives the property; and the former owner is thus released of a heavy burden of rates and taxes. That is the extraordinary position that has been reached in England; and over a period of years it could happen here.

The Hon. R. C. MATTISKE: I cannot subscribe to the Minister's interpretation of "general rate." Existing legislation provides that the general rate shall not exceed a certain amount, which I quoted when speaking earlier. All other items such as fire brigades, libraries, water, etc., are in addition to the general rate.

The Hon. L. A. Logan: I do not think they are.

The Hon. R. C. MATTISKE: Whatever maximum may be imposed by this legislation, there will always be provision, under other legislation, to levy different forms of tax. I feel that in the measure before us we should apply a limit of no more than 2s.

The Hon. J. D. TEAHAN: I have not heard the comments of local governing authorities on this particular clause. I

have been told, however, that they are looking forward to the day when this composite Bill is passed, since it looks to them like a taxing power. I am trying to calculate what the rate would be on the basis of 7s. in the pound, where no water supply exists. Most authorities have an annual value of two-thirds of the rent that would be obtained on a house. Let us take a house at £3 a week. The annual value on such a house would be £100 a year; and at 7s. in the pound it would be £35.

The Hon. C. R. Abbey: That is not the method laid down in this Act.

The Hon. J. D. TEAHAN: I am not sure of the method laid down in the Act, but it is very close to two-thirds. At 7s. it amounts to £35 for the year. The provision in the Bill will put a stop to local authorities being greedy, which they sometimes are.

I could name a number of local government authorities which should be amalgamated. In order to live, some of these authorities raise their rating powers. However, I do not wish to say anything that would jeopardise this Bill, because much depends on it.

The Hon. L. A. LOGAN: I desire to correct Mr. Mattiske. There is a maximum rate laid down in this Act, and local authorities cannot charge anything beyond this maximum rate.

**Amendment put and passed.**

The Hon. R. C. MATTISKE: I feel it is worth while to proceed with a second amendment, although it is closely allied with the one just defeated.

The Hon. L. A. Logan: Your amendment was accepted.

The Hon. R. C. MATTISKE: I am sorry. I move that the clause be further amended as follows:—

Page 455:

Line 19—Delete the word "ten" and substitute the word "seven."

Line 25—Delete the word "two" and substitute the word "one."

Line 26—Delete the word "seven" and substitute the word "five."

**Amendments put and passed.**

**Clause, as amended, put and passed.**

**Clauses 549 to 551 put and passed.**

**Clause 552—Minimum rate may be charged:**

The Hon. R. C. MATTISKE: I move an amendment—

Page 458, line 22—Delete the word "five" twice occurring, and substitute the word "two."

This clause deals with the minimum rate that may be charged. I think the amount of £5 is excessive, even on present-day values. The 1957 Bill provided that £1 was the minimum rate that could be charged. I think £2 is a more suitable figure to meet the normal administrative procedure of sending out notices, and so on. I think £2 should be the minimum rate that should be charged, and not £5 as provided in the Bill.

The Hon. L. A. LOGAN: Once again I must point out to the House that these rates have been considered by men who are themselves associated with local government and know exactly what is required. I think £5 is too high a figure, and £2 is too low. I think the matter should be left to the discretion of the local authority. Perhaps Mr. Mattiske will agree to the following:

(a) The Council shall not impose a minimum rate of more than two pounds unless it has first obtained the approval of the Minister; and

(b) the resolution to impose a minimum rate is carried by an absolute majority of the Council.

This means that local authorities cannot impose a minimum rate of more than £2 unless they have the sanction of the Minister, and unless the minimum rate is carried by an absolute majority of the council. I think we have a safeguard there. The minimum could be £2, but the local authority, through the Minister, has the right to go higher in certain circumstances.

The Hon. C. R. ABBEY: I agree with the Minister. I feel that to set such a low minimum as suggested by Mr. Mattiske is unrealistic; because we have in every municipality and shire—or will have if this Bill is passed—blocks held by people who year after year pay approximately £1 in rates. It is unrealistic for any local authority to have to operate under those conditions. I feel that the £5 minimum figure is realistic. It will discourage people from holding land unnecessarily. If they have to pay £5 or more to hold a block, they must value it. To continue paying a rate of £1 or £2, year after year is not much of a burden; and these people will continue to do so and not use the land to any advantage. I feel that the £5 minimum is realistic.

The Hon. R. C. MATTISKE: With all due respect to the Minister I feel that the person who is paying the rates is entitled to some consideration. We cannot think of the local authority all the time when it requires money for the improvement of certain areas. So far as Mr. Abbey's comments are concerned, I believe there are many cases where persons acquire blocks of land with a view to using them in later years. From my own experience I know of a number of people who have purchased blocks of land so that ultimately, when they get married, they will be able to live in a certain district. If they are to be charged a minimum rate of £5 per annum it could be grossly unfair to them.

However, I am prepared to accept the Minister's proposition in conjunction with my amendment.

The Hon. L. A. LOGAN: I might point out that under this clause, although it states that £5 is a minimum, it only says that the council may impose a minimum rate. The council may impose a lesser amount.

The Hon. H. C. Strickland: As it thinks fit.

The Hon. L. A. LOGAN: Yes. The clause does not say that the minimum shall be £5. Although I brought the other proposition along with me in case the Committee agreed with Mr. Mattiske's amendment, I think the clause could be left as it stands because it covers the position.

The Hon. H. K. WATSON: I agree with Mr. Mattiske's first remarks that our approach to this question ought not to be that we should agree to it simply because the local authority wants it. Local authorities are in the same position as the Treasury, and if we agreed to everything the Treasury wanted we would be broke. We must bear in mind, too, that many local authorities are governed by their executive officers and, if I remember rightly, their remuneration goes up according to the increase in the revenue of the authority.

My stand on this and any other matter will be consideration for those who are paying the taxes or rates. However, in regard to this amendment I am inclined to agree with the Minister. I think that the person who is entitled to consideration is the one who helps to improve a district by building his house; and if someone buys a vacant block of land, and decides to hold it for five or 10 years, I see no reason why, particularly as the value is increasing all the time because of the efforts of others, he should not make some contribution.

The Hon. G. BENNETTS: I agree with the Minister, although a few years ago I would have agreed with Mr. Mattiske. Some years ago in Kalgoorlie people were holding blocks of land for their families, and they paid rates on those blocks for many years. But the Housing Commission simply took over that land and paid the owners what the commission thought was a fair thing. Today people are holding land in the hope that they will make big profits from it in one or two years' time. Therefore I think the clause is in order.

I agree with Mr. Watson, too. I could name six boards where the entire job is done by the executive officers; they have all the say. In this instance I support the Minister.

The Hon. C. R. ABBEY: In my view Mr. Watson's contentions do not hold water, because he has omitted to take into account the fact that every member of a board or municipality has to pay the rates that are levied—in other words they are levying rates on their own properties; and anybody who is levying a charge on himself will have a pretty good look at the need for it.

Despite the fact that some people contend that the executive officers more or less run the boards, that is not so in my experience because, in the main, board members are reasonably successful people and are not likely to leave matters to the executive officers. As they are reasonably successful people they would have reasonable properties and therefore would be paying fairly high rates. They would certainly not increase the rates on their own properties unless such action were necessary.

The Hon. R. C. MATTISKE: I do not want to labour the point, but I must correct the impression given by Mr. Abbey. If the Bill is passed in its present form it will be possible for any occupiers of property to be nominated and elected to local authorities.

The Hon. E. M. Davies: But they have to pay rent.

The Hon. R. C. MATTISKE: It would be not only the owners but the occupiers as well who could have a say in the rates charged. There could be a majority of occupiers on a board and they would be fixing the rates.

The Hon. E. M. Davies: They would still have to pay rent.

**Amendment put and negatived.**

**Cause put and passed.**

**Clauses 553 to 559 put and passed.**

**Clause 560—Who is liable for rates:**

The Hon. R. C. MATTISKE: I move an amendment—

> Page 465, lines 10 to 13—Delete all words after the word "State" down to and including the word "Australia."

This provision in the Bill is to enable rates to be levied as a first charge on the land after rates and taxes, if any, due to the Crown, have been paid; and after mortgages, if any, to the Commissioners of the Rural and Industries Bank of Western Australia, have been covered. I do not see why the R. & I. Bank should be given preference over any other banking authority. For that reason I hope the Committee will agreed to the amendment.

The Hon. L. A. LOGAN: I hope the Committee will not agree to the amendment because the words concerned are most essential. The Government, irrespective of its political colour, lends money to different categories of people through the agency of the R. & I. Bank. Last year funds were made available through the R. & I. Bank to people in the Swan district because they had had a bad year. These words will have to stay in the Bill to safeguard the interests of the Government whose money is loaned through the R. & I. Bank to the people.

The Hon. G. C. MacKinnon: Should not they be covered by the clause just before this?

The Hon. L. A. LOGAN: No. It is not a matter of giving preference to the R. & I. Bank; it is simply safeguarding the Government's money which, through the R. & I. Bank, is loaned to people.

**Amendment put and negatived.**

**Clause put and passed.**

**Clauses 561 to 563 put and passed.**

**Clause 564—Persons liable to be resorted to in succession:**

The Hon. R. C. MATTISKE: I merely draw the Clerk's attention to a mistake in the spelling of the word "judgment" in line 29.

**Clause put and passed.**

**Clauses 565 to 580 put and passed.**

**Clause 581—Land, when vested in the Council:**

The Hon. R. C. MATTISKE: In view of the defeat of my previous amendment, I do not wish to proceed with the next six amendments on the notice paper.

**Clause put and passed.**

**Clauses 582 to 631 put and passed.**

**Clause 632—Duties of auditors as to unauthorised expenditure:**

The Hon. R. C. MATTISKE: I move an amendment—

> Page 522, line 1—Delete the word "auditor" and substitute the word "council."

The Bill provides that should there be any irregularities in the accounts of the local authority, the auditor, once he finds out, shall report to the Minister, who shall direct the auditor whether or not he shall proceed against the person liable to make good to the municipality the expenditure so disallowed. I contend it is not the duty of an auditor to take legal action against a person once he finds a defalcation. The duty of the auditor finishes when he checks the books of a local authority, finds an irregularity, and reports it to the council. From that point it is the duty of the council to take what action is considered necessary against the person concerned. I hope the Committee will agree to the amendment.

The Hon. L. A. LOGAN: I hope the Committee will not agree to the amendment. This provision has applied to both municipalities and road boards throughout the life of the present legislation without any trouble. I discussed this with the President of the Institute of Accountants. That body came to me with recommendations and amendments but after we explained the provisions of the Bill, and those that have been in the Acts, they were content to leave the Bill as printed. The auditor must first find an error, report to the Minister; and if he is directed to take action, he does so in the name of the municipality. Surely that is what he is paid for.

The Hon. W. F. WILLESEE: Does the Minister mean that in effect the auditor gives evidence in chief under a solicitor engaged by the council?

The Hon. L. A. LOGAN: The auditor does what he has done since 1871. He has always taken the necessary action.

The Hon. W. F. Willesee: No.

The Hon. L. A. LOGAN: Yes, he has; as the honourable member will see if he refers to the Acts. This has never been altered. The auditor takes the lead.

The Hon. W. F. WILLESEE: Judging from the remarks of the Minister it would seem that the onus is on the auditor, in which case I would agree with Mr. Mattiske. I understood that the municipality would sue in its own name, through its own solicitor, on the report of the auditor; and that the auditor would give evidence in chief.

The Hon. L. A. LOGAN: That is what happens; but it cannot be laid down in the Bill that the solicitor shall take the action. It is the auditor who takes the action.

The Hon. W. F. Willesee: An auditor might uncover something in Albany but he might be in Wittenoom when the case comes up.

The Hon. L. A. LOGAN: He will not be in Wittenoom, because he will wait for the Minister's direction. In the case uncovered in Mingenew it was the auditor who took the action.

**Amendment put and negatived.**

**Clause put and passed.**

**Clauses 633 to 649 put and passed.**

**Clause 650—Proof in legal proceedings:**

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

> Page 530, lines 30 to 36—Delete paragraphs (f) and (g).

I do not like the provisions contained in this clause, and I dislike paragraphs (f) and (g) the most. If someone is charged by a council with committing an offence, it will not, under the Bill, be necessary for the council to prove the boundaries of the district or the ward of the municipality. The council has the facilities to prove those things, and I think it should have to do so.

There might be some dispute whether an offence occurred within the district, and the unfortunate person charged would have to go to the expense of rebutting the allegation of the council. This could lead to quite a lot of trouble and expense. It should be a formality that the prosecuting

authority should undertake to prove. I think a council should be required to prove in what is mentioned in paragraph (g). An individual should not be called upon to go to the trouble and expense of proving the negative. It should be easy enough for the council that is prosecuting to prove these matters.

The Hon. L. A. LOGAN: Proof is not required until proof is given to the contrary. I think it is unnecessary that a municipality should have to go to the Lands Department and obtain a statement which delineates boundaries. This takes considerable time. That is what we will be making a council do.

The Hon. E. M. Heenan: Supposing there were some doubt about it?

The Hon. L. A. LOGAN: I do not think a prosecution could be based on whether something happened this side of the road or something happened the other side.

The Hon. E. M. Heenan: It might.

The Hon. L. A. LOGAN: I do not see why. It is an offence just the same.

The Hon. G. Bennetts: It might be a motor accident which takes place astride both boundaries.

The Hon. L. A. LOGAN: I think the clause would be better left as it is. It has been in the consolidated Bills since 1948 and nobody has challenged it.

The Hon. F. J. S. Wise: Has it ever been used?

The Hon. L. A. LOGAN: It has never been challenged in Parliament before.

The Hon. H. C. Strickland: It is a wonder Mr. Gifford did not clear it up.

The Hon. L. A. LOGAN: I have no notes on the matter, but I imagine it is there for a purpose. I think it will put councils to too much trouble and worry if they have to define pieces of land within their districts.

The Hon. F. R. H. Lavery: What about the onus of proof in the Bradley case in Colombo? It is the same type of thing.

The Hon. L. A. LOGAN: Section 508 of the Municipal Corporations Act reads as follows:—

> In any prosecution or other legal proceedings under the provisions of this Act or any by-law, or regulation, instituted by or under the direction of the council of any municipality, no proof shall, until evidence is given to the contrary, be required—

Then it goes on to state the circumstances. It would appear as though paragraphs (f) and (g) have been included in the Bill at the request of somebody. I cannot give the answer, but I suggest that they remain in the Bill. They will not do any harm.

The Hon. H. C. STRICKLAND: I would like the Minister to explain this: The clause says that until proof is given to the contrary, proof is not required. If an accused proves that the offence did not happen within the boundaries of a municipality, how is the municipality going to prove otherwise?

The Hon. L. A. LOGAN: If, during the course of a person's defence, proof is given contrary to the charge, then it is not necessary for the council to prove these other things. If evidence is given to the contrary, then the council is required to give proof.

The Hon. G. Bennetts: I think the clause should be postponed.

The Hon. L. A. LOGAN: This wording has been in the Act for a long time and nobody has ever challenged it.

The Hon. H. C. Strickland: That is no reason why it should stay there.

The Hon. L. A. LOGAN: There is nothing to prove until evidence is given to the contrary.

The Hon. H. C. Strickland: The Act says "evidence."

The Hon. L. A. LOGAN: No proof is required until evidence is given to the contrary.

The Hon. H. C. Strickland: That is not what the Bill proposes.

The Hon. L. A. LOGAN: What is the difference? If a defendant gives proof to the contrary in regard to the boundaries of a district or the ward of a municipality it is up to the council to prove otherwise; but until such time as a defendant can find a flaw in the prosecution, the council does not have to give proof.

The Hon. N. E. Baxter: If proof is given to the contrary, they could not prove its point. Proof is evidence.

The Hon. L. A. LOGAN: Proof and evidence have the same meaning.

The Hon. F. J. S. Wise: I think an examination of the notes would show that the word "proof" is a misprint and should read "evidence."

The Hon. E. M. HEENAN: If a council alleges something has occurred within a portion of its district the normal thing for a prosecuting authority to do is to prove the district. Councils would surely have maps. Surely no council would be without a certified map of its area. Why do they not have to prove it? It is their job. The unfortunate individual has to disprove. If an alleged offence has happened outside the district, the individual has to go to the bother of getting plans; and I think it is the job of the council to prove its case. This is putting the onus of proof on the unfortunate individual who is charged.

The Hon. G. Bennetts: Like the Gold Buyers Act.

The Hon. E. M. HEENAN: Yes; that is a classic example.

The Hon. G. Bennetts: The provision ought to be cut out of that one, too.

The Hon. E. M. HEENAN: If under the Traffic Act an inspector prosecutes anyone, he goes into court and gives his name and produces his certificate of office. I feel that in this case that is what the council should do. It would be relatively simple for the council to do that, but it would be difficult and possibly very expensive for the person charged to prove his points.

The Hon. J. G. HISLOP: Would it not be better, to make sense of this, to alter in line 16 the word "proof" to the word "evidence"?

The Hon. L. A. LOGAN: I am not prepared at this stage to make an amendment to a provision which has been drawn up by legal men. I would rather postpone the clause and obtain the legal interpretation of it, if Mr. Heenan will withdraw his amendment.

The Hon. E. M. HEENAN: In order to assist the Minister and Dr. Hislop, I ask leave to withdraw my amendment.

**Amendment, by leave, withdrawn.**

On motion by The Hon. L. A. Logan further consideration of the clause postponed.

**Clauses 651 to 694 put and passed.**

**Postponed clause 12—Power of Governor to constitute municipalities:**

The Hon. L. A. LOGAN: Members will recall that this clause was postponed because of the issue raised by Mr. Watson in regard to the Governor having the power to unite two municipalities without petition. I move the following amendment which I hope will be satisfactory:—

> Page 27, line 37—Add after the word "district" the words "if union of those municipalities has been recommended by the Local Government Boundaries Commission appointed under subsection (6) of this section."

In effect, the Governor can only unite two municipalities without petition if the matter has been referred to the boundaries commission and it has agreed that it should be done. I believe this is fair and reasonable; and I hope it provides the safeguard requested by Mr. Watson, this being that the Governor cannot unite two municipalities whether they desire it or not, unless the commission agrees.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Postponed clause 173—Proceedings at council meetings:**

The CHAIRMAN: (The Hon. W. R. Hall): Members will find that this clause has been wrongly placed on the notice paper under the heading of "Upon recommittal of the 'Local Government Bill'."

The Hon. C. R. ABBEY: I do not wish to be unduly difficult about this matter but there does seem to be an anomaly. To illustrate this I refer the Minister to clause 53 and to clause 182 (9).

I am basing my contention in support of the amendment I have on the notice paper on the fact that in both the instances I have mentioned it is considered that the chairman should have both a deliberative and a casting vote. A mayor of a suburban municipality considers that as this provision would disfranchise him, and prevent him from representing his ward—

The Hon. H. C. Strickland: What ward does a mayor represent?

The Hon. C. R. ABBEY: If the council decides it shall elect a mayor by vote, he must represent a ward. In that event, if the voting on a question is 4 and 3, and the mayor wants to vote against the motion, he cannot do so. Therefore he is disfranchised from representing his ward.

I know it will be said that my amendment will give a mayor or president two votes. That is quite so, but how can that be overcome if the mayor or president is not to be disfranchised? I move an amendment—

> Page 158—Insert after subclause (7) in lines 22 to 25, the following to stand as subclause (8):—
>
> (8) The mayor or president shall have a deliberative vote.

The Hon. L. A. LOGAN: I hope the Committee will not agree to the amendment. The clauses quoted by Mr. Abbey are not applicable to this. In the case of the revision court, there must be a definite decision. In the other case, it is necessary for a decision of the committee to be considered by the full council.

I contend that the mayor is not being disfranchised by being given only a casting vote. If he has a deliberative vote as well as a casting vote, he has an advantage over the other members. If, at a meeting, there are eight members present, of which the mayor, who, let us say, has been elected on the ward basis is one, and the voting, excluding the mayor, is four one way and three the other, and the mayor voted with the minority, it would bring the voting up to four-all; and under the rules of debate the question would pass in the negative. If we agreed with Mr. Abbey's amendment, the mayor would be given an advantage over the other four, because by exercising his extra vote he could make the voting five to four. I do not think that is intended.

Let us get back to the position of the voting being four and three. He might want to vote with the majority; but, it would not be necessary for him to do so, because the majority would already be established. He is not, in that event, disfranchised. If the voting is five and two,

and he wants to vote with the minority, he is not disfranchised; because his vote would be negatived, in any case.

When, including himself, there are seven members present, or nine, he can use his casting vote which becomes, in effect, a deliberative vote.

**Amendment put and negatived.**

**Clause put and passed.**

**Postponed clause 235—Quarrying and excavating:**

The Hon. R. C. MATTISKE: I think it would be preferable to attempt to achieve the result I desire by moving an amendment different from the one I have on the notice paper. I move an amendment—

Page 200, line 7—Insert before the word "license" the word "continuing."

The Hon. L. A. LOGAN: A license is a license. Under this provision a license will include the conditions agreed to by the local authority and the person concerned. The local authority must surely have the right, periodically, to review the license. If the license is a continuing one it could go on for ever without the local authority having an opportunity to impose fresh conditions. The other night I mentioned some annual licenses—licenses in connection with noxious trades and restaurants. The people holding those licenses have to apply for renewal each year.

A person has no worries about his license being renewed if he does the right thing. But if a licensee does not do the right thing, then surely the local authority should have the right to prevent him continuing. I hope the Committee will not agree to the amendment.

The Hon. G. BENNETTS: Before a contractor opened a quarry and installed £1,000 worth of plant, he would enter into an agreement with the local authority; and the agreement would provide that it would be renewed annually subject to its terms being carried out. I have not heard of a local authority going against its own word provided its contracts or agreements were carried out.

*Sitting suspended from 10.0 to 10.23 p.m.*

The Hon. E. M. DAVIES: I hope the Committee will not agree to the amendment. This clause refers to the extractive industry, which means quarrying and excavating for stone, gravel, sand and other materials. The amendment seeks to insert the word "continuing" before the word "license". This means that if an industry is granted a license to operate a quarry, it will be a continuing license and the industry will be able to operate the quarry as it likes.

Within the boundaries of the local authority with which I am associated, generally certain conditions are laid down when contracts for quarrying are let. In some cases the condition is to quarry to the levels set by the city engineer or by the contours of the land; in other cases the explosive charges are brought under control, because very often charges greater than necessary are used. These shake the surrounding districts, and the nearby houses are affected. Local authorities must have some control over matters such as these.

If a licensee does not carry out the terms of his contract the local authority should have some recourse. I do not know whether any licensee has attempted to evade the terms of his contract in the past. As far as I know, they have all tried to work in co-operation with the local authorities.

The Hon. R. C. MATTISKE: The honourable member stated conditions are imposed when a license is granted. I do not oppose the insertion of conditions in a license; and when the licensee does not adhere to the conditions, I do not object to the withdrawal of the license. However, I contend that once a local authority has come to an arrangement with a person or a company, under which the person or company is permitted to carry on quarrying or other types of excavation, the license should continue for the full term of the project.

In the instance I mentioned where a quarry was opened for the winning of road metal, when the license was first granted all the conditions regarding the restoration of the ground to a safe state at the end of the life of the pit, and the conditions regarding blasting and the other operations of the quarry, could have been stipulated by the local authority.

The individual conducting the undertaking should have security of tenure. When he is given permission to carry on operations he should be assured that he is able to carry on uninterruptedly during the life of the pit. If he has not that assurance he could be involved in the expenditure of a considerable sum in developing the quarry or pit, or in the installation of the requisite machinery, and find afterwards that he had no security of tenure.

In such a case, with a change in the composition of the local authority, new unsympathetic members could revoke the original arrangement. Should that happen, not only will the owner lose his capital, but his employees will be thrown out of employment. Employees in quarries and pits should have some security of employment.

When conditions are applied by local authorities, they should be applied under the original licenses. These licenses should not have to be renewed year by year. They should continue for the life of the projects. I sincerely hope that the Committee will

agree to this because it is an extremely important provision and one which will vitally affect industry in many forms.

The Hon. R. THOMPSON: I would draw the Minister's attention to one particular quarry situated in Clontarf Road—a private road—near Hamilton Hill. Several hundred yards from the new East Hamilton Hill school and a stone's throw from the Housing Commission's new project is a huge gaping hole. The local authority has withdrawn permits for further excavation in the area, but there is not even an adequate fence to keep out school children. This could result in a fatality very shortly, the same as occurred recently in Midland Junction.

Although I am going to support the clause, I do not feel that it is strong enough, because I think that provision should be made for adequate fencing to be erected. One has only to drive along the coast road to see what the indiscriminate contractors have done there. The local authority will have to spend many thousands of pounds of the ratepayers' money to reclaim the areas.

The Hon. N. E. BAXTER: I believe there is something in Mr. Mattiske's proposal. One could visualise the situation occurring whereby a person would want to know whether he had any security of tenure before he established machinery and equipment costing many thousands of pounds. No encouragement would be afforded such a person if he knew he had only a 12-month tenure. In the Central Province there is at present a quarry being excavated by Bell Bros. in the Beverley district. If the license for that quarry were terminated at the end of 12 months, Bell Bros. could be involved in the loss of quite an amount of money in having to move the machinery somewhere else, because they may not find another suitable area where the machinery could be utilised.

I would suggest to the honourable member that he add to his amendment, "for such a period as is agreed to between the person conducting or proposing to conduct the extracting industry and the council." That would ensure that the industry had a certain life.

The Hon. S. T. J. THOMPSON: I oppose the amendment. Mr. Baxter seems to have lost sight of the fact that members of local government authorities are usually responsible people and do not cancel a license for an industry conducted in their area. Rather do they encourage such industry. For this reason I believe the Minister is very wise in sticking to the provisions of the yearly license.

The Hon. G. C. MacKINNON: There are quite a number of implications in Mr. S. Thompson's remarks. He reminded me that I know of a particular place where an activity of this nature is being carried out. It is in a road board area but the interested people live in a municipality, because it is just over the border. Also on the financial side of it, the Government has gone to considerable expense in this particular case to install a drain to dispose of the floodwaters. The next step in the establishment of that drain will involve an expenditure of £7,500. Therefore it is not only the operators of a particular industry who require some continuity of operations, but because of drainage necessary in these areas, the Government requires the same guarantee. Therefore it is not as easy as Mr. Thompson would suggest.

The Hon. L. A. LOGAN: I point out that the provision we are dealing with only comes under the by-law-making power; the council may make by-laws for this purpose. I have already explained what occurs when a by-law is made. It has to be accepted by the majority of the local authorities; vetted by the local government department; vetted and agreed to by the Minister; accepted by Executive Council; and accepted by both Houses of Parliament. If a license is issued by a local authority and then cancelled, the owner has the right of appeal to the Minister. I think sufficient safeguards are contained in the provision.

***Amendment put and negatived.***

The Hon. L. A. LOGAN: Mr. Baxter raised an issue on the definitions of "restore" and "reinstate." I have had some research made into this question and whilst his interpretation is approximately correct, it is not as rigid as he thinks it is. I have the actual definition from *Chambers' Dictionary;* I have gone through a booklet issued by the Ministry of Town and Country Planning in England, and through a confidential statement of the Ministry of Housing and Local Government, and I have taken extracts from them. I have come to the conclusion that there is nothing to worry about in the interpretation. The terms and conditons will be set out in the license when issued.

There is one other point raised, this being in regard to a bond. I am prepared to accept a bond. I move the following amendment—

> Page 200—Add after paragraph (c) in lines 9 to 24 the following new paragraph:—
>
> ; or
>
> (d) requiring, as an alternative to payment into such a fund an applicant for a license to give to the council a bond, with or without sureties, in such sum as the council deems sufficient to ensure that the person carrying on an extractive industry will himself carry out, or cause to be carried out, such restoration and reinstatement work as is agreed

upon between the council and the applicant on the granting of the license, and providing, in the case of default by the applicant in so carrying out the work or so causing it to be carried out, for forfeiture of the bond and payment of the sum therein referred to to the council, and empowering the council to apply that amount, or so much of that amount as is required, to carry out the work.

I am sorry I have not been able to distribute this amendment among members. It is the same provision as paragraph (c) except that it requires a bond and not the other type of guarantee.

The Hon. N. E. Baxter: It is much better worded than paragraph (c).

The Hon. R. C. MATTISKE: This amendment is a good one in my opinion, but I do not see the necessity for retaining the existing paragraph (c). As one of the conditions of the issuance of the license is that the person shall restore the land in a certain manner, and he is prepared to support his intentions with a bond, I do not see the necessity for paragraph (c).

The Hon. L. A. Logan: This is an alternative.

**Amendment put and passed.**

The Hon. R. C. MATTISKE: I move an amendment—

Page 200—Add the following proviso to subclause (3):—

Provided that this section shall have no application in respect of the excavation for or mining or winning such materials as are defined by section one hundred and thirty-six of the Mining Act, 1904-1955.

The effect of this amendment is that those metals which are defined in section 136 of the Mining Act will remain under the control of the Minister for Mines. Once he has given the go-ahead signal for the excavation of any of those minerals, this authority should not be overridden by a local governing body. One Minister should have the control right through, instead of it being divided between two separate Ministers.

The Hon. L. A. LOGAN: As Minister for Local Government naturally I prefer the control of clay to be left in the hands of the local authorities who are handled by the Minister for Local Government. It may be arguable that clay has been classified as a mineral. My own humble thoughts are that clay should be placed on the same basis as sand and gravel. That is the way it is covered in the Bill and I think we should let it stay as it is.

**Amendment put and negatived.**

**Clause, as amended, put and passed.**

**Postponed clause 447—Council regarded as owner of streets, etc., and unfenced land abutting:**

The Hon. L. A. LOGAN: We postponed this clause so that I could have a look at the Cattle Trespass, Fencing, and Impounding Act, to see whether the suggestion put forward by Mr. Loton could be incorporated. I am quite agreeable to portion of what he wants, but this clause would be the wrong place in which to move that amendment. It would have to be moved with respect to clause 460.

The Hon. A. L. Loton: It will have to be done on recommittal.

The CHAIRMAN (The Hon. W. R. Hall): That is so.

**Clause put and passed.**

**Postponed clause 650—Proof in legal proceedings:**

The Hon. L. A. LOGAN: I move an amendment —

Page 530, line 16—Delete the word "proof" where first occurring.

If this amendment is agreed to I shall move to substitute the word "evidence."

**Amendment put and passed.**

The Hon. E. M. HEENAN: I oppose the Minister's next amendment because proof of the matters referred to in the clause has to be given by someone; that is not evidence. It is incumbent on someone to prove the point; and evidence is not sufficient. Proof of boundaries is given by the production of an authenticated plan which once and for all establishes where the boundaries are; and I think the prosecuting authority has an obligation to do that.

The Hon. G. Bennetts: That is British justice.

The Hon. E. M. HEENAN: Yes. Flimsy evidence might be given but that is not adequate. There should be an obligation to prove the point; and I think "proof" is the correct word in both places in line 16.

The Hon. L. A. LOGAN: In the first place I argued the point in Committee that the words as printed were correct. I obtained advice that although they might be correct the words did not read right, and it would be better to use the word "evidence." That was suggested by Dr. Hislop. I have accepted the suggestion, and surely if it makes sense, the necessity for taking out the paragraphs, as suggested by Mr. Heenan, no longer arises.

If a man has an accident in the centre of a town, why should the authority have to go to the court, after having gone to the expense of going to the Lands Department and other authorities to obtain plans, to prove that the accident happened where it did, when everyone knows it happened there? If there is no argument about it why should the authority have to go to

all that trouble? It is only where evidence is raised to the contrary that it is necessary to give proof.

The Hon. F. J. S. Wise: But the boundaries of a local governing body are prescribed; they are not a matter of guesswork.

The Hon. L. A. LOGAN: I have been dealing with some lately and, believe me, it was not easy to get the new delineation.

The Hon. F. J. S. Wise: That is new matter. They make no mistake where the ratable value applies.

The Hon. L. A. LOGAN: Why should the local authority have to prove something that has already been proved? I think in everyday language the word "evidence" reads better. I move an amendment—

Page 530, line 16—Substitute the word "evidence" for the word deleted.

The Hon. J. G. HISLOP: I think this will make the position clearer because, when the accused person raises a claim and gives evidence to support his claim that whatever occurred was not within the boundary, that will be the only time when the local authority will be called upon to declare its boundaries.

The Hon. N. E. BAXTER: I have a property in the Northam Road Board area and the property is also adjacent to the Mundaring Road Board area. If the Mundaring Road Board prosecuted me under the Bill, I would have to prove that I was not in its district, which would be just as hard for me to do as it would be for the road board to prove that I was. If I gave evidence by the production of my rate notice, which would show that I was not in that road board's area, it would be sufficient.

The Hon. G. C. MacKINNON: Surely evidence, to be any good, must prove something. Therefore the word "proof" is the obvious word. I could bring evidence that I was in a certain position, but the fellow across the road might give evidence to the contrary. However, I would not call that evidence; I would call only one lot of evidence. But having substituted the word "evidence," proof is not needed. If we carry on further and say that the evidence must prove something, then I would say that "evidence" is the correct word.

**Amendment put and passed.**

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

Page 530, lines 30 to 36—Delete paragraphs (f) and (g).

I do not want to reiterate the arguments I have used, except to say that I think it is the job of the council.

The Hon. L. A. Logan: It will be the job of the council under the Act now.

The Hon. E. M. HEENAN: I hope the Committee will accept my amendment.

The Hon. L. A. LOGAN: If the Committee takes out these paragraphs, I do not know what case the defence will make. At the moment, if evidence is given to the contrary, it is necessary for the council to prove the matters mentioned in the paragraphs. This makes the council do the proving, not the individual.

The Hon. E. M. HEENAN: I think the Minister is wrong. If anything is said about boundaries the council does not have to give any evidence or proof; it is the obligation of the person charged to say that the offence did not occur within the boundaries. Anyone charged with an ordinary offence such as assault or stealing does not have to prove his innocence. It is for the prosecution to prove it by evidence that he is guilty.

**Amendment put and a division taken with the following result:—**

Ayes—14.

| | |
|---|---|
| Hon. G. Bennetts | Hon. G. C. MacKinnon |
| Hon. E. M. Davies | Hon. H. C. Strickland |
| Hon. E. M. Heenan | Hon. J. D. Teahan |
| Hon. J. G. Hislop | Hon. H. K. Watson |
| Hon. R. F. Hutchison | Hon. W. F. Willesee |
| Hon. G. E. Jeffery | Hon. F. J. S. Wise |
| Hon. F. R. H. Lavery | Hon. R. Thompson |

*(Teller.)*

Noes—13.

| | |
|---|---|
| Hon. C. R. Abbey | Hon. R. C. Mattiske |
| Hon. N. E. Baxter | Hon. C. H. Simpson |
| Hon. J. Cunningham | Hon. S. T. J. Thompson |
| Hon. A. F. Griffith | Hon. J. M. Thomson |
| Hon. A. R. Jones | Hon. F. D. Willmott |
| Hon. L. A. Logan | Hon. J. Murray |
| Hon. A. L. Loton | |

*(Teller.)*

**Majority for—1.**

**Amendment thus passed.**

**Clause, as amended, put and passed.**

**New clause 433A.:**

The Hon. L. A. LOGAN: I move—

Page 362—Insert after clause 433 the following to stand as clause 433A:—

433A. (1) The Governor may—

(a) make and publish in the *Gazette* uniform general by-laws for all or any of the purposes for which by-laws may be made by a Council under this Part;

(b) by order declare that all or any such uniform general by-laws as are specified in the order shall apply to the whole or any portion of a district so specified;

(c) by subsequent order declare that all or any such uniform general by-laws as are specified in the order shall cease to apply

to the whole or any portion of a district so specified.

(2) Where the Governor so declares that any uniform general by-law shall apply in the whole or any portion of a district, the by-law shall until it ceases to apply have the same force and effect in the district or portion of the district as if it were made under this Part by the Council of the district in which or in portion of which it is so declared to apply.

(3) Where and to the extent that there is inconsistency between the provisions of a uniform general by-law having force and effect under this section and a by-law made by a Council under this Part, the former provisions prevail.

(4) A Council may enforce any uniform general by-law that is made and has effect pursuant to this section in its district or portion of its district in the same manner as it may enforce a by-law made by it under this Part.

**New clause put and passed.**

**Schedules 1 to 26 put and passed.**

**Title put and passed.**

**Bill reported with amendments.**

## COUNTRY HIGH SCHOOL HOSTELS AUTHORITY BILL

*Assembly's Request for Conference*

Message from the Assembly received and read requesting a conference on the amendments insisted on by the Council, and notifying that at such conference the Assembly would be represented by three managers.

**THE HON. A. F. GRIFFITH** (Suburban—Minister for Mines) [11.17]: I move—

That the Assembly's request for a conference be agreed to.

**THE HON. H. C. STRICKLAND** (North) [11.18]: While I am not going to disagree with the motion moved by the Minister, I am surprised at the Assembly requesting a conference, because it has returned this Bill on one occasion and the Council was very definite on its insistence on the amendments which were carried. In my opinion, conferences simply result in the will of one House being imposed upon the will of another House; and sometimes they boil down to a one-man decision. This gets away from the principles of democracy as we know them. As a conference is the only alternative we have in the Western Australian Parliament I am going to agree to the motion.

**THE HON. A. F. GRIFFITH** (Suburban—Minister for Mines—in reply) [11.20]: The Standing Orders of this House, and the Standing Orders of the Legislative Assembly provide this basis for the two houses to get together on a point where there is some disagreement. To my mind it is quite futile to make a suggestion that conferences are abortive until such time as the result is known to be abortive.

I say with respect that if it is not proposed we carry on on the basis provided for by our rules, then perhaps some move ought to be made to alter the rules. However, until such time as a move is made to alter the rules, it is perfectly competent for the Legislative Assembly to ask this House for a conference of managers; and it is equally competent for the Legislative Council to ask the Assembly for a conference of managers.

**Question put and passed.**

*Appointment of Conference Managers*

**THE HON. A. F. GRIFFITH** (Suburban—Minister for Mines) [11.22]: I move—

That the managers for the Council be The Hon. H. C. Strickland, The Hon. A. R. Jones and the mover, and that the conference take place in the Legislative Council Committee room at 7 p.m. on Wednesday, the 19th October.

**Question put and passed, and a message accordingly returned to the Assembly.**

*House adjourned at 11.23 p.m.*

# Legislative Assembly

Tuesday, the 18th October, 1960

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