business suffered following the amendments introduced last year in another place seeking to prevent the sale of fireworks in this State. I think the Government has been very generous in its approach to the problem and the Minister, when introducing the Bill, said the Government would take action to see that retailers were properly compensated and would also take steps to ensure that they would not profit as a result of the Government's consideration.

This is the aspect of the matter to which I want to refer. I seem to recall that only recently I saw a newspaper report that the sale of fireworks has dropped alarmingly with the result that the suppliers of fireworks will have large stocks left on their hands, and by the time the next Guy Fawkes day arrives they will not be permitted to sell these fireworks. These people may suggest that because the Bill was not proclaimed they considered it necessary to import further large stocks of fireworks to meet the anticipated demand, and because Parliament indicated it would compensate them for any loss sustained they felt they were were quite within their rights in importing further stocks.

The Government must watch the position very carefully to ensure that these suppliers do not profit from the action of the Government, because it could quite easily say there was no need for suppliers to import further stocks of fireworks—if indeed they have done so—and that they could have anticipated the demand for fireworks would drop, as it has dropped, at this time of the year.

I think it was the Minister for Industrial Development who tonight said that we were always tilting at windmills, particularly in regard to our reactions to legislation which happens to be before us. It would seem that this is one windmill that has got away from the Government, because there now appears to be no danger.

I do ask the Government to give very serious consideration before compensating the importers and suppliers of fireworks. I do not think the Government has any responsibility to compensate these people. If this were done, other sections of the community who might be put to expense as a result of legislation passed by Parliament might also seek compensation. To the best of my knowledge, in the last five years I have not known of anyone being compensated in the manner contemplated by the Government in this instance, particularly when they have had sufficient warning that action would eventually be taken.

MR. BOVELL (Vasse—Minister for Lands) [10.31 p.m.]: I thank members for their comments and their contributions to this debate. The member for Boulder-Eyre referred to the imposition of a fee for permits that might be issued, and the member for Swan talked about the inconvenience suffered as a result of blasting operations in the quarries. I know the Minister for Mines—who, of course, is in another place—will give due thought to the points that have been raised.

In referring to the comments made by the member for Victoria Park, I did say when introducing the Bill that the Government would look into the question of compensation. This, of course, is again a matter for the Minister for Mines to deal with, and I have no doubt he will give consideration to the remarks made by the member for Victoria Park.

I do think, however, that where stocks have been purchased in good faith, it is only fair that some consideration should be given to compensation on a reasonable basis. Finally, I would say to the member for Victoria Park that no matter what comments were made when the original Bill was introduced by Mr. Stubbs in another place, all's well that ends well; and it would seem in this case that all will end well.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

House adjourned at 10.36 p.m.

Legislative Council

Wednesday, the 18th October, 1967

The PRESIDENT (The Hon. L. C. Diver) took the Chair at 4.30 p.m., and read prayers.

QUESTIONS (9): ON NOTICE

EDUCATION

School of the Air

1. The Hon. E. M. HEENAN asked the Minister for Mines:
   (1) Is the scheme of education known as "School of the Air" functioning satisfactorily?
   (2) Will the Minister give a brief outline as to the purpose and achievements of the scheme?
   (3) Is it possible that the scheme could be improved and extended along lines which were recently submitted to the Director of Education by the Meekatharra Parents and Citizens' Association?

The Hon. A. F. GRIFFITH replied:

(1) Yes.

(2) The purpose is—

(a) to supplement the correspondence lessons by providing tuition on specific points of difficulty;

(b) to provide opportunities for all discussion, music, literature, social studies, and drama lessons;

(c) to make direct contact between the teacher marking the papers and the pupil.

(3) Suggestions have been made for varying the financial terms of supplying and renting transceiver sets to parents. These suggestions are under consideration.

HOUSING

Constructions

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

(1) How many houses, flats, and home units—

(a) have been built throughout the State during 1966-67;

(b) are expected to be completed in 1967-68; and

(c) were built during the period 1956 to 1959?

Building Industry: Number Employed

(2) How many men were employed in the building industry from 1956 to 1959?

(3) How many men are employed in the building industry in 1967?

The Hon. A. F. GRIFFITH replied:

(1) (a)

Houses	8,272
Flats and units	1,742
	10,014

(b) The level of approvals and commencements indicate that the 1966-67 completions will be exceeded in 1967-68.

(c) Houses and flats completed:

	Houses	Flats	Total
1955-56	7,760	584	8,344
1956-57	5,030	365	5,395
1957-58	6,196	171	6,367
1958-59	5,846	212	6,058

(2) Men employed in the building industry as at the 30th June:

1956	9,080
1957	9,439
1958	8,924
1959	9,092

(3) 14,133.

WATER SUPPLIES

Exmouth: Reduction of Mineral Content

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

(1) Is the Minister aware that the heavy mineral content in the Exmouth water supply is blocking water pipes?

(2) Is any plan imminent to install a plant capable of reducing this mineral content and reducing the effect on piping?

The Hon. A. F. GRIFFITH replied:

(1) No blocked pipes or meters have been reported.

(2) No.

KALGOORLIE ABATTOIR

Sale to Mr. Iwankiw

4. The Hon. R. H. C. STUBBS asked the Minister for Mines:

Further to my question on Wednesday, the 11th October, 1967, relating to the terms of sale of the Kalgoorlie Abattoir—

(a) why are the agreements not signed;

(b) is it because of reluctance of Mr. Iwankiw to sign them;

(c) has there been any disagreement between the parties concerned in regard to the terms of the sale, or for any other reason;

(d) if the reply to (c) is "Yes," what is the cause;

(e) in view of the agreements not being signed, what tenure does Mr. Iwankiw possess in this property?

The Hon. A. F. GRIFFITH replied:

(a) It is understood that a few minor matters have to be finalised.

(b) No.

(c) No.

(d) Answered by (c).

(e) That of a purchaser under contract of sale.

MEDICAL SERVICES AT EXMOUTH

Doctor, Chemist, and Dentist

5. The Hon. G. E. D. BRAND asked the Minister for Health:

(1) Is it a fact that the United States naval doctor at Exmouth treats only enlisted men, and that wives and children of Americans are treated by the town doctor?

(2) With the large influx of people to the Exmouth area, will the Minister investigate the possibility of securing an extra doctor to assist in the town?

(3) Is there any likelihood of the establishment of a chemist shop in Exmouth?

(4) Will the Minister endeavour to attract a dentist to the town?

The Hon. G. C. MacKINNON replied:

(1) The United States naval doctor treats wives and children or Americans.

(2) The matter is being kept under review.

(3) This will depend on private enterprise activity.

(4) Yes.

TRAINEE NURSES

Travel Concessions

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

What decision, if any, has the Government made to a request that students travel concessions be extended to trainee nurses?

The Hon. A. F. GRIFFITH replied:

In view of the amount of salary and allowances received by trainee nurses, the provision of free air travel is not considered warranted.

PRAWNING

Exmouth Gulf: Effect of Salt Works

7. The Hon. G. E. D. BRAND asked the Minister for Fisheries and Fauna:

Will the Minister inform the House if the proposed salt works referred to in *The West Australian* on the 7th October, 1967, will have any effect on the prawning industry now established in the Exmouth Gulf area?

The Hon. G. C. MacKINNON replied:

It is believed that for some months after the completion of the post-larval stage prawns live in salt water flats, estuaries, and creeks. An investigation is now in train in another similar area to determine the extent of the damage, if any, likely to occur if such areas are cut off from the sea.

8. *This question was postponed.*

LEONORA-LAVERTON ROAD

Bituminising

9. The Hon. G. E. D. BRAND asked the Minister for Mines:

(1) Can the Minister advise if, on completion of the black road to Leonora, continuation of bituminising the road east to Laverton is envisaged in the next few years?

(2) Is the Minister aware that this road can become an important tourist road in the not-too-distant future?

The Hon. A. F. GRIFFITH replied:

(1) The Main Roads Department has no plans for the bituminous surfacing of the road between Leonora and Laverton.

(2) Whether or not this road will become an important tourist road is one for conjecture at this point in time.

The Main Roads Department has heavy financial commitments for the upgrading of other important roads in the State, and it is unlikely that funds will be available for other than maintenance work on this road in the foreseeable future.

SUPPLY BILL (No. 2)

Receipt and First Reading

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

FAUNA PROTECTION ACT AMENDMENT BILL

Third Reading

Bill read a third time, on motion by The Hon. G. C. MacKinnon (Minister for Fisheries and Fauna), and transmitted to the Assembly.

COUNTRY HIGH SCHOOL HOSTELS AUTHORITY ACT AMENDMENT BILL

Third Reading

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Mines) [4.46 p.m.]: I move—

That the Bill be now read a third time.

THE HON. J. M. THOMSON (South) [4.47 p.m.]: Before this Bill is read a third time I wish to take the opportunity to make some comments on the present and the future situation of the Country High School Hostels Authority. Before I do so, I would like briefly to refer to the past and the necessity in days gone by for the establishment of hostels such as we have in our country districts today.

Some people, mainly the women, felt there was a desire and an urgent need for more suitable and supervised accommodation for high school students. The establishment of hostels appeared to be the solution of the problem. The first hostel was established at Northam where the Country Women's Association purchased a building to house the girl students attending the high school at Northam. The name given to this hostel was the Mary Adamson Girls Hostel.

The second hostel was established at Albany, for boys, and was named the Janet McDonald Boys Hostel. This was also controlled by the Country Women's

Association. Another hostel at Albany was privately owned and catered for girls. The name of that hostel was the Priory Hostel.

The Government was not involved in very much expenditure—if any—in the case of the first two hostels. However, in the case of the third hostel the Government purchased the property and it eventually came under the control of the hostels authority. The only money contributed by the Government was, and is, a subsidy of 35c per child per week.

From time to time representations have been made by the Country Women's Association of Western Australia to the Education Department to have the subsidy increased, but up to this point of time nothing has eventuated. However, we trust that erelong the Government will see fit to review this matter and increase the subsidy which is paid to the hostels.

This is a small Bill, but the amendment is very significant. The provision extends the limit of the annual borrowing powers of the Country High School Hostels Authority of Western Australia to $300,000 per annum.

This has been made necessary for several reasons: Firstly, the demand that has been made upon the hostels authority for new buildings; secondly, because of necessary alterations and additions to existing hostel buildings, and in some instances the necessity to bring old buildings acquired by the authority up to the standard required; and thirdly, the ever-increasing cost of construction and the cost of accessories and facilities required for hostel buildings.

To this list of reasons must be added a further reason, and I refer to the upgrading of schools which has had a decided bearing on the position and has resulted in a strain being placed on the financial resources of the hostels authority. While the upgrading of schools is desirable, and no doubt inevitable, at various centres it has had the obvious effect of reducing the number of students attending long-established senior high schools. At these centres, previously, because of a lack of suitable accommodation, hostels were established to accommodate students of both sexes who came from the outlying districts and more remote country areas.

I cannot give a better illustration of this than the position at Albany and Bunbury. At Albany we have the Rocks Hostel for girls, which is controlled by a committee of the Country Women's Association. The boys' hostel used to be the Albany districts hospital prior to the building of the Albany Regional Hospital. This boys' hostel is controlled by a management committee from the Methodist Church. Both these hostel buildings have always been Government property. The Rocks was formerly the summer residence of the Governor and therefore the taking over of these two buildings for the purposes I have just mentioned did not cost the State Government very much, if anything, other than for minor repairs and the necessary alterations.

There is another hostel at Albany known as the Priory. It is a girls' hostel and is controlled by a committee of management set up by the Church of England. This property was purchased from a private owner by the Government of the day and it cost in the vicinity of £21,000.

At Bunbury there was the Craig Hostel where many boys who were attending the Bunbury Senior High School were accommodated until the hostels authority built a new hostel at that centre. The new building is situated not far from the Bunbury High School and it was built at considerable cost some two or three years ago. However, now, because of the upgrading of schools generally, and the establishment of junior and senior high schools in various country districts, the position at Bunbury and Albany has altered considerably.

At Albany, students from as far as 170 miles away were accommodated in the hostels, and in the case of Bunbury the distance was 60 to 70 miles. However, because of the upgrading of schools, as I have just mentioned, the intake of students at the Rocks Hostel, and the boys' hostel at Albany, and the recently built hostel at Bunbury, has dropped considerably, thus creating many vacancies in these established hostels. This position has, in turn, increased the accommodation requirements at other centres where high schools are established, because the number of students previously attending such schools as the Albany and Bunbury High Schools seek accommodation at centres where they are now attending school. This has created a demand for additions to be made to existing hostel buildings and even the construction of new hostels in certain country centres.

Taking into account the cost of building, and the administrative costs for the control and running of these hostels by the committees involved, I am of the opinion that any future expansion in the field of country high school hostels must be looked at from the viewpoint of economics. I am even bold enough to say that much benefit would accrue if there was a closer liaison between senior officers of the Education Department and representatives of the Country High School Hostels Authority. Conferences between these bodies could no doubt determine the effects of upgrading which, in turn, would have a decided bearing on present and future expansion of hostels, or the necessity for the construction of new ones.

A liaison such as I have mentioned would ensure that the intake of students into new hostels would not react to the detriment of hostels which are already established, and which were built at considerable cost and involve the authority in heavy running costs. Before any new

hostels are built I consider a conference should be held between the department and the hostels authority to avoid positions such as have occurred at Bunbury and Albany where we have found, because of the building of junior and senior high schools in certain country centres, many students no longer require hostel accommodation at the main centres because they can be accommodated nearer their homes. Therefore I believe a close study should be made of the economics of building new hostels and this can be done by conferences between the two bodies to which I have referred.

If the already-established hostels cannot be used to their maximum capacity they will have to close sooner or later, even though a considerable sum of money has been spent on buildings and alterations. In dealing with this and other similar matters involving the expenditure of public money, no doubt a parliamentary public works standing committee would be of considerable benefit and would be of assistance to the Government and to the hostels authority. We have heard suggestions before in the House about the establishment of parliamentary standing committees for public works and public accounts and, as I have said previously, I think they would be of great value.

In conclusion I would like to say that I heartily support the provision in the Bill, more especially the purpose for which the particular amendment is designed. This will serve the country districts of our State very well.

Question put and passed.

Bill read a third time and passed.

BILLS (2): RETURNED

1. Town Planning and Development Act Amendment Bill.
2. Explosives and Dangerous Goods Act Amendment Bill.

Bills returned from the Assembly without amendment.

JUSTICES ACT AMENDMENT BILL

Assembly's Amendment

Amendment made by the Assembly now considered.

In Committee

The Deputy Chairman of Committees (The Hon. F. D. Willmott) in the Chair; The Hon. A. F. Griffith (Minister for Justice) in charge of the Bill.

The DEPUTY CHAIRMAN: The amendment made by the Assembly is as follows:—

Clause 4, page 3, line 5—Delete the word "jointly".

The Hon. A. F. GRIFFITH: When this Bill left the Chamber the provision read, "where two or more persons are jointly charged." It was pointed out in another place that by the use of the word, "jointly," the intention of the Bill might be circumvented, and it was moved that the word "jointly" be deleted from the Bill. I propose to ask the Committee to accept the amendment. This will make it clear that people will be charged together for the one offence, and it will prevent the circumvention of the intention of the legislation. I move—

That the amendment made by the Assembly be agreed to.

Question put and passed; the Assembly's amendment agreed to.

Report

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

MOTOR VEHICLE (THIRD PARTY INSURANCE) ACT AMENDMENT BILL

Second Reading

THE HON. L. A. LOGAN (Upper West—Minister for Local Government) [5.7 p.m.]: I move—

That the Bill be now read a second time.

In December, 1966, the Motor Vehicle (Third Party Insurance) Act 1966—No. 95 of 1966—was passed. Section 2 of that Act provided that the Act would come into operation on a date to be fixed by proclamation, and that it was not necessary to proclaim the whole of the Act at any one time. The purpose of the Act was to bring about three major alterations to the existing law relating to claims for damages for bodily injury or death arising out of the use of motor vehicles. They are as follows:—

Those provisions in sections 6 and 7 of the Motor Vehicle (Third Party Insurance) Act which limited the liability of the Motor Vehicle Insurance Trust to $12,000 in respect of a claim by a passenger in a vehicle, the driver of which was 100 per cent. responsible for the accident were repealed. The type of accident generally known as a "one vehicle accident" comes within this category.

A new section 6A was inserted in the principal Act to permit one spouse to sue the other for damages for bodily injury arising out of the negligent use of a motor vehicle by that other spouse. Hitherto, a wife injured in a motor vehicle accident as a result of the negligence of her husband driver had no cause of action for damages for the injuries which she thereby suffered.

Both of these provisions came into operation on the 1st July, 1967, as members will see from the *Government Gazette* No. 39 of the 5th May, 1967. The particular sections of Act 95 of 1966 which were proclaimed to come into operation from the 1st July, 1967,

by that *Government Gazette* were sections 1, 2, 6, 7, 8, 9, 19, and 21.

The third party claims tribunal was established. The particular sections by which it was established are numbered in the principal Act as 16, 16A, B, C, D, E, F, G, and H, and 33. The members of the tribunal have been appointed and the chairman has drawn a set of draft rules which he considers will give efficient operation to the tribunal. These rules have been scrutinised by senior counsel whose practice is largely in the field of claims for damages for negligence arising out of the use of a motor vehicle and they have also been scrutinised by the parliamentary drafting section of the Crown Law Department. They agree with the chairman's views. However, as a matter of precaution, and in order to ensure that none of the rules is *ultra vires*, the present Bill has been proposed and is put forward.

The purpose of clause 3 is to enable the chairman to sit alone in chambers on the hearing of the interlocutory matters. The new subsection (19) is to all intents and purposes, the same as the existing subsection (19), except that it is expressed in the Bill to be subject to subsection (20). Subsection (20) would give the chairman the necessary jurisdiction to sit alone in chambers on interlocutory matters. Section 16 subsection (19) of the Act as it stands at present, requires the chairman of the tribunal and one member at least to sit together at all times for the transaction of any business of the tribunal. This is obviously desirable when any assessment of damages or determination of liability is being made by the tribunal, but this situation only arises when either the claim comes on for hearing or an application is made by a party for leave to compromise an infant's claim—that is, for the tribunal's approval of a settlement in respect of a claim for damages for personal injuries by an infant plaintiff.

Before this stage is reached, however, there are usually one or two interlocutory matters which arise during the preparation of the claim which must be dealt with on an application in chambers. Under the present system such applications are dealt with in the Supreme Court by a judge in chambers and, in a local court, by the magistrate in chambers. Examples of the type of application referred to as interlocutory applications are applications to enlarge time to file pleadings, to amend pleadings; for an order for discovery; to have a special date fixed for hearing, etc. It is clearly not necessary for the whole of the tribunal to sit on such applications and, in fact, it is desirable from the point of view of the efficient working of the tribunal that these interlocutory applications be dealt with by the chairman alone. The proposed amendment to section 16 of the Act will give him the necessary power.

Clause 4 of the Bill provides for the addition of a third subsection to section 16A of the Act which at present provides for the appointment of the registrar and the necessary other officers and servants of the tribunal under provisions of the Public Service Act, 1904. The purpose of the proposed subsection (3) is to give the registrar power to transact such part of the business of the tribunal and exercise such jurisdiction in relation to interlocutory proceedings and the taxation of costs as may be prescribed. The draft rules of the tribunal provide that the registrar shall tax bills of costs and settle the form of draft orders and judgments of the tribunal. It is usual for the registrar of the Supreme Court to tax bills of costs and to settle draft orders and judgments in cases similar to those which will be dealt with by the tribunal. In the case of local courts, the clerk of the court taxes all bills of costs. The purpose of the proposed amendment is to ensure that the registrar will have the powers which one would ordinarily expect him to have.

Clause 5 of the Bill is tied up with clause 3 which gives the chairman power to hear interlocutory proceedings in chambers, and provides for the insertion in the first line of section 16D, "other than interlocutory proceedings" after the word "Tribunal." The relevant part of section 16D at present reads—

> all proceedings before the Tribunal shall be conducted in public.

The amendment will have the effect of changing that to—

> all proceedings before the Tribunal other than interlocutory proceedings shall be conducted in public.

This would mean that the actual hearing of claims and applications for the approval of the settlement of infants' claims, would continue to be conducted in public, as they are at present in the civil courts, but that the interlocutory proceedings, commonly known as chamber proceedings, would be heard in chambers as they are at present in the civil courts.

Clause 6 (a) of the Bill provides for the addition to section 16E (1) of the Act of the words "including proceedings to compromise claims" after the word "proceedings" in line 5 of that subsection. The subsection at present reads—

> Subject to the provisions of section 16F of this Act, the Tribunal shall on and after a date to be proclaimed, have exclusive jurisdiction to hear and determine all actions and proceedings brought against an owner or driver of a motor vehicle or against the Trust, claiming damages in respect of the death of or bodily injury to any person caused by or arising out of the use of a motor vehicle.

Section 16F deals with the tribunal's power to delegate administrative matters gener-

ally to local courts and the hearing of specific claims on specific occasions to a magistrate of a local court.

The purpose of the amendment is to make it quite clear that the tribunal has power to approve the settlement or compromise of a claim by an infant. Some lawyers have expressed the view that the phrase, "all actions and proceedings," is so general as to include such matters. On the other hand there is a provision in order 16A of the Rules of the Supreme Court which reads as follows:—

> 1. (1) Where in any action in which an infant or person of unsound mind is a party a settlement or compromise is proposed, it shall not be valid unless approved by the Court or a Judge.
>
> (2) Applications for approval under this rule may be made by summons returnable before a Judge in Chambers and shall be supported by affidavit and independent Counsel's opinion unless the judge shall see fit to dispense with such opinion.

Other lawyers have expressed the view that unless the proposed amendment is passed, this procedure will still be open in the Supreme Court where it is sought to compromise the claim of an infant. The purpose of the proposed amendment is therefore to ensure that the tribunal has the exclusive jurisdiction in respect of claims for damages in respect of death or bodily injury arising out of the use of a motor vehicle which Parliament intended it to have when it passed Act No. 95 of 1966.

Clause 6 (b) of the Bill provides for the deletion of the phrase, "had and could exercise immediately prior to the commencement of this section" from the first paragraph of subsection (5) of section 16E and the insertion in its place of the phrase, "would, but for the enactment of this section have had."

The subsection at present provides that the tribunal shall have and may exercise all or any of the powers in relation to proceedings before the tribunal as a judge had and could exercise immediately prior to the commencement of this section. If the subsection remains as at present, it would in the future require continual reference back to the powers of a judge in 1967 in order to determine exactly what the powers of the tribunal are. The powers of a judge may change. In, say, 10 or 15 years' time, difficulties might arise in determining exactly what those powers were in 1967.

The amendment would give the tribunal, with respect to proceedings before it, the powers which a judge would but for the enactment of the section have had, and the purpose of the amendment is to enable the powers of the tribunal to be determined at any time by reference to the powers of a judge at that particular time. This would give consistency to the operation of the tribunal and keep its powers on foot with those of a judge as was no doubt intended when the original enactment No. 95 of 1966 was passed.

Clause 6 (c) of the Bill provides for the addition of a further subsection numbered (6) to section 16E which deals with the powers of the tribunal. The proposed subsection (6) reads as follows:—

> The Tribunal may order that the amount or any part of the amount of damages recovered or adjudged, ordered or agreed to be paid to or for the benefit of a person under a legal disability be paid to the Public Trustee or other trustee approved by the Tribunal for investment and application as authorised by law.

The tribunal depends for its powers entirely on Statute. At the present time there is no statutory power to enable the tribunal to direct the investment of damages awarded to an infant or awarded to a person under a legal disability; that is, an infant or person of unsound mind. At the present time the judge who awards the damages in a claim by an infant or a person of unsound mind, in addition to making the award of damages or approving the compromise as the case may be, ordinarily includes in the judgment or order a provision or provisions for the investment of the amount of general damages awarded on behalf of the infant in trustee securities by the Public Trustee or other approved trustee.

As the tribunal will in the future have exclusive jurisdiction in respect of claims for damages for bodily injury arising out of the use of a motor vehicle it is essential that the tribunal in addition to having the power to make awards on behalf of infants or persons of unsound mind, should have the power to order the proper investment of the amount of those awards for the benefit of the persons under a legal disability to whom the awards have been made.

Clause 7 of the Bill provides for the amendment of section 33. This section gives the Governor power to make rules and regulations under the Motor Vehicle (Third Party Insurance) Act. The clause provides for the deletion of the present general rule-making paragraph (f) of subsection (2), and the substitution of paragraphs (f), (g), (h), and (i), and for the addition of a further subsection (3).

The proposed new paragraph (f) reads—

> the means by which particular facts may be proved and the mode in which evidence thereof may be given, in any proceedings or on any application in connection with, or at any stage of, any proceedings;

This is required so that the rules of the tribunal can provide for the manner in which various facts can be proved and the mode in which evidence thereof may be

given. This is obviously an essential requirement for any judicial body.

Also there are provisions in the draft rules of the tribunal that, with the acquiescence of the other parties in a claim, the affidavit of a medical practitioner may be tendered in evidence. It is felt that this will result in the affidavits of medical practitioners being tendered in evidence in cases where there are no differences as between the parties with respect to the particular medical practitioner's evidence.

This would result in a consequent saving of valuable time on the part of many medical practitioners. It is common with the type of claim which will be dealt with by the tribunal for a person to be injured in a motor vehicle accident several hundred miles from Perth; for the initial injuries to be observed and treated by a local medical practitioner; and for the injured person to be then transferred to Perth for continuation of his treatment. In some cases the claim is then heard in Perth and the local medical practitioner is required to travel from his home town to Perth to give undisputed evidence as to the nature of the initial injuries and treatment.

It is felt that in such cases legal costs and inconvenience to the medical practitioner would be avoided if the tribunal had power to accept his affidavit. This would, of course, apply only to a case where there is no dispute as to the medical evidence. The draft rules do provide that if any party requires the oral evidence of a medical practitioner to be given, then it shall be given before the tribunal at the hearing in the ordinary way as at present.

The proposed paragraphs (g) and (h) read as follows:—

> (g) the application to proceedings before the tribunal, the Chairman or the Registrar of the rules of the Supreme Court for the time being in force;
> (h) the making of practice rules by the Chairman;

Rule 1 of the draft rules of the tribunal provides as follows:—

> Where no rule of practice or procedure is prescribed by these rules the general rules relating to the practice and procedure in the Supreme Court for the time being in force shall apply so far as they may be applicable and where there is no rule applicable to the particular circumstances of the case, the Chairman may make a rule of practice for that particular case.

At the present time without the proposed amendment this rule, containing as it does what is in effect a delegation of a rule-making power, would be outside the rule-making power in the Act. On the other hand, the draft rules have for the sake of brevity been condensed and certain rules which do occur in the Supreme Court rules, but which are very seldom used, have been omitted. In these circumstances, it is obviously desirable to have an overall rule such as the proposed one so that no circumstances can ever arise with which the tribunal does not have power to deal.

Paragraph (i) is a general rule-making power provision to replace the existing paragraph (f). That paragraph at present reads—

> generally carrying into effect the provision of this Act so far as those provisions relate to the Tribunal and the Registrar and any proceedings of or before the Tribunal.

The proposed paragraph reads—

> carrying into effect, generally, the provisions of this Act so far as they relate to the Tribunal, the Chairman, the Registrar and proceedings of, or before, any of them;

It will be noted in the proposed paragraph the chairman is referred to specifically. This is because of the anticipated giving to him of power to sit alone in chambers on interlocutory matters. There is also reference to proceedings before the registrar. This addition is because of the anticipated power of the registrar to tax bills of costs and settle the form of judgments and orders.

The proposed amendment in clause 7 (b) is to add a third subsection to section 33 which reads as follows:—

> For the purposes of proceedings before the Tribunal, a medical report the substance of which a party intends to adduce in evidence, at some stage of the proceedings, is not a document that may be withheld on the ground of privilege by that party.

At the present time some medical reports would be privileged—that is, those obtained specifically for the purpose of the action—and other medical reports not so obtained would not be privileged. The usual procedure between solicitors acting in matters which come within the jurisdiction of the tribunal is to freely exchange copies of medical reports, and it is not usual to rely on this question of privilige in this particular jurisdiction.

It is felt, in order to enable the tribunal to operate efficiently, that it is desirable to clarify the position with respect to medical reports and to have it specifically enacted that those the substance of which a party intends to adduce in evidence are not privileged documents, which will mean that when one party obtains discovery of documents the other party will be obliged to make available all the medical reports in his possession the substance of which he intends to adduce in evidence, and vice versa.

This is fair to all parties and in fact enables every party to the claim to know from time to time just what the medical

condition of the claimant is, and the frank disclosure which would be brought about by the exchange of medical reports would assist in early settlement of claims as the defendant would know exactly what the medical situation was and would be in a position to make an appropriate offer for settlement.

Furthermore, in the draft rules there is a rule requiring parties to a third party claim to lodge copies of the medical reports on which they intend to rely in the registry of the tribunal 14 days before the hearing. The purpose of this is to enable the members of the tribunal to get a good idea of the actual medical situation before the case comes on for hearing. Without this amendment some practitioners might claim privilege with respect to their medical reports and not comply with the rule. The result of this would be to increase the time taken for the hearing of claims.

Clause 8 provides for a new section 33A which reads as follows:—

> An affidavit required for use in any proceeding depending in, or before, the Tribunal may be sworn or affirmed in the State before a member of the Tribunal, a Commissioner for taking affidavits for use in the Supreme Court, a Justice of the Peace for the State or the Registrar and may be sworn or affirmed at any place outside the State before a person authorised under the law of that place to administer oaths.

It is clearly desirable to have an express provision stating before whom affidavits for use in the tribunal can be sworn. This is a matter of substantive law and for that reason it is proposed to include it in the Act rather than in the rules.

Debate adjourned, on motion by The Hon. E. M. Heenan.

LAND ACT AMENDMENT BILL

Second Reading

THE HON. L. A. LOGAN (Upper West—Minister for Local Government) [5.26 p.m.]: I move—

> That the Bill be now read a second time.

It is required under section 41A of the Land Act that a town or suburban lot, which is passed in at an auction, remain available for sale at the upset price for a period of six months. During that period, an interested party may purchase the lot by private treaty at that price without having to await formal proceedings for the arrangement, advertising, and possible attendance at a further auction sale.

An amendment in the Bill, which affects this section, proposes the extension of this period up to 12 months with a ministerial discretion allowing the fixing of a lesser period by published notice when the sale is advertised if the shorter period is considered desirable or necessary. It is considered that, by extending the period to 12 months, delays in finalising sales, which would otherwise occupy a longer period in arranging an auction, will be avoided.

There are also amendments in this measure affecting sections 110 and 111. These have been designed to restore a provision relating to compensation payable for dwelling houses on pastoral leases, when such leases expire, are resumed, or are selected under conditional purchase conditions.

Members may remember that Act No. 60 of 1963 amended section 140 of the Land Act, deleting the provision whereby a valuation in respect of dwelling houses on pastoral leases was allowed as a *bona fide* improvement for the purpose of increasing the carrying capacity or improving the pastoral capabilities of the land.

The passing of this amendment resulted in a complementary effect on sections 110 and 111 to the extent that the statutory provision providing for compensation payment to the pastoral lessee was removed.

It is now proposed to reinstate the rights of the pastoral lessee to compensation when his pastoral lease expires or is resumed or selected under other conditions. This will not alter the existing position providing that a dwelling house is not included as a developmental improvement on pastoral leases, however.

The next amendment, which I will explain, affects section 139B, which refers to rental concessions available to discharged members of the forces who select or acquire conditional purchase leases. It is proposed to add two new categories of eligible ex-servicemen to the definition of "discharged member of the forces."

These categories may be defined as follows:—Firstly, former members of the Mercantile Marine who served during the 1939-45 war within certain defined conditions; secondly, former members of the Naval, Military, or Air Forces, who were engaged in a theatre of war or hostilities since World War II. This proposal is designed to embrace servicemen who served in such areas as Korea, Malaysia, or Vietnam.

The amendment does not specify any particular period of time a serviceman must have served in an area of hostilities to qualify for concessions. He must, however, complete six months full-time service or have been materially prejudiced by reason of service in any of those forces from completing six months full-time service to become eligible.

Provision is made to empower the Minister to exercise discretion in determining the areas which apply because certain sectors in the war zones referred to are not considered "areas of hostility" or "theatres of war."

The Bill further proposes to delete from section 140 the reference to "ring-barking" in the matter of valuation of "not more than two shillings and six pence per acre." A good reason for deleting this reference lies in the fact that this method of dealing with land clearing is no longer in general favour. Nevertheless, in the unlikely event of its being practised, there is provision already in section 140, which, in broad terms, allows valuation for any improvement which enhances the agricultural capabilities of the land.

The first of the amendments to section 143 (2a) (a), arises from the necessity to maintain jurisdiction where a lessee or licensee intends to sell land held under the provision of the Land Act, 1933-65.

While adequate provision exists for the Minister to authorise the actual sale, assignment, or disposal of such land, it also becomes necessary to make provision that the Minister must approve where the lessee or licensee desires to offer his lease or license for sale and wishes to invite inquiries from prospective purchasers with the ultimate objective of sale.

Finally, the other amendment affecting subsection (3) of the section is necessary to conform with the new improvement conditions passed under the 1965 legislation and which require a percentage of area to be developed rather than the provision basing improvement requirements on a conditional purchase lease on monetary values up till then applying.

Debate adjourned, on motion by The Hon. W. F. Willesee (Leader of the Opposition).

STOCK DISEASES ACT AMENDMENT BILL

Second Reading

THE HON. G. C. MacKINNON (Lower West—Minister for Health) [5.32 p.m.]: I move—

That the Bill be now read a second time.

Mr. President, you and other members of this Chamber, and perhaps more particularly those representing rural areas, will be aware that in the late 1950s a national committee was formed to consider ways of controlling and eradicating bovine pleuro-pneumonia, for at that time the disease was well established and prevalent throughout the length and breadth of Australia.

As a result of the amount of detection and eradication work done in this direction in the intervening period, large areas in some States have now become established as being disease free, while other areas have a lower level of disease than heretofore; yet, in others, the position is still of serious proportions.

The position at the moment, then, as regards bovine pleuro-pneumonia, is that areas throughout Australia come under one of three categories; namely, free areas, protected areas, and what are regarded still as infected areas. These categories are recognised throughout Australia and it is proposed that here, in line with other States, the appropriate regulations will take cognisance of these three distinctly defined areas of impact.

For instance, a free area is regarded as one which is absolutely free from the disease; a protected area is one thought to be free and in which no pleuro-pneumonia has been found for some time, thus making it essential to prevent reinfection; finally, the infected area is regarded as one in which the disease is either known to exist or else the area has not yet reached the status of a protected area.

Consequently, it is proposed that our regulations be based on these three distinct areas of bovine pleuro-pneumonia impact which have been legally defined in other parts of the Commonwealth. It is a known fact that the whole of New South Wales and the major part of Victoria are now regarded as free areas, while Queensland, South Australia, and the Northern Territory all have some free areas. This Bill will permit regulations to be made which will increase the safeguards to Western Australia in the introduction of cattle from other States of the Commonwealth, yet permit the introduction of cattle which may presently be prohibited. Anomalies will be removed and the regulations will take cognisance of the greatly improved disease situation in the Eastern States.

In other words, the Bill seeks to widen the provisions of section 6 of the Act so that regulations may be based on the current but changing animal disease situation in Australia. This will facilitate not only the interstate movement of cattle but will, at the same time, provide adequate safeguards against the introduction of diseased cattle into this State.

Debate adjourned, on motion by The Hon. R. H. C. Stubbs.

ADJOURNMENT OF THE HOUSE: SPECIAL

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Mines) [5.35 p.m.]: I move—

That the House at its rising adjourn until Tuesday, the 24th October.

Question put and passed.

House adjourned at 5.36 p.m.