If I might interpolate, it does seem to me that those are excellent reasons in support of the amendments I have on the notice paper which I feel we should put into statutory form in this Act. The report continues—

> Commission of act charged assumed; inconsistency with other defenses. Entrapment is a positive defense, the invocation of which necessarily assumes that the act charged was committed.

It seems to me that this means that a man might say, "Yes I have committed the offence, technically"—in this case against section 46 or whatever it might be—"but I committed it in these circumstances. It was certainly not my intention to commit the offence. I was lured, persuaded, coerced, cajoled into doing something which did not originate in my mind."

On page 138 of the same publication, under the heading, "What Constitutes Entrapment" we find the following—and it is from this that I have drawn my proposed amendment:—

> One who is instigated, induced, or lured by an officer of the law or other person, for the purpose of prosecution, into the commission of a crime which he had otherwise no intention of committing may avail himself of the defense of "entrapment." Such defense is not available, however, where the officer or other person acted in good faith for the purpose of discovering or detecting a crime and merely furnished the opportunity for the commission thereof by one who had the requisite criminal intent.

It can be seen, therefore, that the defence of entrapment does not in any way constitute an added difficulty upon the prosecution. So long as the prosecution goes about its investigation and gets its evidence in an ordinary routine way there is no impediment placed upon it.

The defence of illegal entrapment only avails where there has been a positive attempt on the part of the police, or whoever it is, to set up a trap, to catch somebody, or to ensnare. In a sense the belief in America is that if one goes out of one's way to cause somebody to do something, or to commit a crime, which that person would not otherwise have committed, then one should not be able to say, "Now that you have done it, we are going to prosecute and convict you for it."

That is the reason for the second amendment which I have on the notice paper. I think it is a very worth-while amendment. It is, I suppose, a little unusual. I certainly did not propose it on the basis that because it is done in America we should do it here. I will leave that sort of thinking for my opponents in the Federal sphere—they can invoke such thoughts as "all the way with L.B.J." which, I am sure, are obnoxious to most Australians. I invoke the principle because it is a good one and I feel we should put it to work.

Debate adjourned, on motion by Mr. Lapham.

House adjourned at 4.26 p.m.

Legislative Council

Tuesday, the 15th September, 1970

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

QUESTIONS (8): ON NOTICE

1. TOWN PLANNING

Herdsman Lake Area

The Hon. R. F. CLAUGHTON, to the Minister for Town Planning:

(1) Is it proposed to use any portion of Herdsman Lake locality for sanitary landfill?

(2) If the answer to (1) is "Yes"—
  (a) where will the site be located; and
  (b) is it proposed to construct a sand bund to contain pollution?

(3) What evidence is there that a sand bund will prevent contamination of adjoining waters from sanitary landfill?

(4) (a) Have peat deposits on Herdsman Lake been measured;
  (b) what is their maximum thickness; and
  (c) what is their average thickness?

(5) (a) Do the Shire of Perth by-laws provide for construction on piles where peat is present:
  (b) if "No" is it proposed to introduce such a by-law?

(6) Is it permissible in the Shire of Perth to construct on sanitary landfill for—
  (a) residential; and
  (b) other purposes?

The Hon. L. A. LOGAN replied:

(1) Yes.

(2) (a) Approximately 60 acres in the South-West section of the lake adjacent to Cromarty Road.
  (b) Yes.

(3) This is a relative question which will depend on several factors such as the type of sand used, width of bund, direction of water movement, etc.

(4) (a) No.

(b) and (c) Answered by (4) (a).

(5) (a) and (b) No.

(6) (a) No.

(b) This is a matter for the discretion of the Shire Council in the light of any special circumstances that might arise.

2. NATIVE RESERVES

Disturbances: Protection of Police

The Hon. G. E. D. BRAND, to the Minister for Mines:

As police officers are often called upon during the hours of darkness to quell a disturbance involving most of the inhabitants on a native reserve—

(1) What means of protection is the officer permitted for personal safety?

(2) If there is a considerable number of persons involved, what action is permissible?

(3) Can a police officer take a firearm on to a native reserve to quell a disturbance?

(4) Can a police officer call on private persons for assistance?

(5) Is a Native Welfare Department officer required to assist, if asked?

The Hon. A. F. GRIFFITH replied:

(1) A Police Officer is trained in the art of self-defence, and is equipped with a rubber truncheon.

(2) He can call for reinforcements, or may call on private persons to assist him.

(3) A Police Officer may take a firearm on to a Native Reserve, but its use is subject to strict control.

(4) Answered by (2).

(5) Yes.

3. TOWN PLANNING

Local Authorities: Qualified Town Planners

The Hon. R. F. CLAUGHTON, to the Minister for Town Planning:

Which local authorities employ a qualified town planner?

The Hon. L. A. LOGAN replied:

I assume the honourable member is referring to full-time employment on local authority staffs. The following local authorities come in this category: Perth, South Perth, Fremantle, and Melville City Councils; Perth, Wanneroo, Canning, Gosnells, Armadale-Kelmscott and Bayswater Shire Councils.

4. LAND

Taxation Valuations

The Hon. F. R. WHITE, to the Minister for Mines:

If a person owns two properties, one of which is improved and the other unimproved, does the State Taxation Department—

(a) issue two separate Land Tax Assessments to the owner;

(b) aggregate the two properties together for the purpose of Land Tax Assessment?

The Hon. A. F. GRIFFITH replied:

(a) The properties are separately assessed but only one notice of assessment is issued to the owner.

(b) No.

5. RURAL RELIEF FUND

Financial Position

The Hon. S. T. J. THOMPSON (for the Hon. E. C. House), to the Minister for Mines:

(1) Are any funds held in the Treasury under the provisions of the Rural Relief Fund Act of 1935?

(2) (a) Are there any existing Trustees appointed under the provision of this Act; and

(b) if so, who are they?

(3) Is there any impediment in the application of the provisions of the Rural Relief Fund Act, 1935, and the Farmers' Debts Adjustment Act, 1930, to assist farmers of today who are in dire need of assistance?

The Hon. A. F. GRIFFITH replied:

(1) Yes.

(2) (a) Yes.

(b) A. R. Barrett.
E. B. Ritchie.
F. W. Byfield.

(3) The Commonwealth Bankruptcy Act inhibits the operation of the Rural Relief Fund. In addition, the Farmers' Debts Adjustment Act, with the associated Rural Relief Fund Act, requires that the finances of qualifying farmers be placed under the control of a receiver. Because of this, and its reaction on rural credit generally, the Government is reluctant to apply the provisions of these Acts, even if there were no legal impediment.

6. LAND

Taxation Valuations

The Hon. F. R. WHITE, to the Minister for Mines:

If a person owns two or more improved properties, which are many miles apart, each property being less than five acres in area but having a combined area of more than five acres, does the State Taxation Department levy the owner for Vermin and Noxious Weeds Rates?

The Hon. A. F. GRIFFITH replied:

No.

7. EDUCATION

Remedial and Special Classes

The Hon. F. R. WHITE, to the Minister for Mines:

How many—

(a) remedial classes;

(b) special classes,

are being conducted by the State Education Department in each of the following municipalities—

(i) Shire of Swan;

(ii) Shire of Mundaring;

(iii) Shire of Toodyay;

(iv) Shire of Armadale-Kelmscott;

(v) Shire of Rockingham-Safety Bay; and

(vi) Shire of Kwinana?

The Hon. A. F. GRIFFITH replied:

	Remedial Part-time daily instruction	Special (Full-time)
(i)	4	3
(ii)	Nil	Nil
(iii)	Nil	Nil
(iv)	3	2
(v)	Nil	Nil
(vi)	Nil	2

8. VEGETABLES

Imports

The Hon. CLIVE GRIFFITHS, to the Minister for Mines:

Further to my question of the 10th September, 1970, regarding the importing of onions or other vegetables into Western Australia, would the Minister advise whether—

(a) any onions are being imported from overseas; and

(b) if so, from where?

The Hon. A. F. GRIFFITH replied:

(a) A quantity of approximately 40 tons was imported from overseas in August, 1970.

(b) These onions were imported from Japan.

FAUNA CONSERVATION ACT AMENDMENT BILL

Report

Report of Committee adopted.

AUCTIONEERS ACT AMENDMENT BILL

Third Reading

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Justice) [4.42 p.m.]: I move—

That the Bill be now read a third time.

Last week I refrained from asking the House to agree to the third reading of this Bill because of the doubt that had been raised in my mind when Mr. Medcalf spoke to the second reading, and I wanted the opportunity to do a little research on the questions he raised. I therefore referred the matter to the Parliamentary Draftsman who drafted the Bill, and the following is in reply to the remarks that were made by the honourable member:—

The case first cited by Mr. Medcalf relates to s.14; that section covers a licensed auctioneer who holds the licence on his own behalf as well as a licensed auctioneer who holds it for the benefit of a company or firm. In the case of the first mentioned licensed auctioneer, he is, under s.14(4), personally liable for the acts and default of the clerk or deputy acting under the temporary licence who acts in his place, there is no firm or company to attach liability to in those circumstances. In the case of the second mentioned auctioneer, a temporary licence can be granted under s.14(1), but under s.20(7) the firm or company on whose behalf he holds the licence must consent to the granting of the temporary licence and the company or firm is liable for the acts and defaults of the clerk or deputy acting under the temporary licence.

In the case where the company or firm is liable, the licensed auctioneer is unable from illness or any other sufficient cause to act as auctioneer and therefore he has no control or supervision over the clerk or deputy.

In the case set out in 15A(4), added by clause 9 of the Bill, the licensed auctioneer has the control and supervision of the trainee nominated in the provisional auctioneer's certificate and he is present to so supervise and control. It is felt because of the peculiar relationship between tutor and pupil, e.g. master and apprentice, solicitor and articled clerk, the responsibility for the acts and defaults of the trainee should be that of the licensed auctioneer and not the company or firm which, as such, teaches the trainee nothing. No doubt the licensed auctioneer could seek and obtain an indemnity from his company or firm.

Presumably, he could do this if it was considered to be desirable.

However, the actual matter, I suppose, of whether the master—in this case, the auctioneer—should be liable for any act of negligence on the part of the trainee is a matter of policy; but in the legislation it was not sought to alter the situation other than to permit an auctioneer to have, under the conditions set out in the Bill, the right to obtain, for the purpose of advancing the training of a pupil, the type of license the Bill permits to be issued.

I have no real firm feeling on the matter. I think the Bill is all right as printed, but if I were to be pressed on the point and it could be shown that there was a real need to shift the responsibility from the auctioneer to the firm which employs him, no doubt a suitable amendment could be framed to cope with the situation.

I was merely proposing to deal with the situation I was requested to look at in order to give training opportunities to young people in the capacity that was envisaged when the second reading of the Bill was introduced. So far as I am concerned I propose to leave the Bill as it is, but I repeat that if there were any real pressure in regard to the matter, and it could be pointed out that as a matter of policy an amendment should be made, consideration could be given to it when the Bill is debated in another place.

Question put and passed.

Bill read a third time and transmitted to the Assembly.

AUSTRALIA AND NEW ZEALAND BANKING GROUP BILL

Third Reading

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Justice) [4.48 p.m.]: I move—

That the Bill be now read a third time.

THE HON. V. J. FERRY (South-West) [4.49 p.m.]: When I briefly contributed to the second reading debate I indicated that I had no desire at that stage to delay the passage of the legislation. Members will realise that there is a provision in the Bill as to the time factor, wherein it is indicated that it is desirable that Parliament should consent to the Bill; that it should be proclaimed, and become operative by the 1st October, 1970.

This, as was explained by the Minister and referred to by Mr. Willesee, is necessary for the smooth operation of the merger of the two banking institutions, the A.N.Z Bank and the E.S.&A. Bank. When everything is in order they will become known as the Australia and New Zealand Banking Group. Because of the necessity to ensure a quick passage of the legislation through the House I did not move for the adjournment of the second reading debate. I took the course I did to enable the Bill to proceed to the third reading stage, at which I reserved the right to make a few observations, as I saw fit, after having sufficient opportunity to examine the Bill thoroughly.

Over the last few days I have taken the opportunity to examine the Bill to the best of my ability. I find it to be a particularly interesting piece of legislation. As the Minister explained when he introduced the second reading, and also in his reply to the second reading debate, the measure could have been introduced by a private member. It was not necessarily a Bill that the Government had to introduce; nevertheless, the Government saw fit to steer the legislation through Parliament, and in this respect I believe it is doing the right thing. Therefore this Bill is not of very great moment to the Government; it is merely introducing the Bill as a matter of legality to allow this banking group to operate, without having to involve itself in a tremendous amount of additional work to bring about the merger.

I would like to take this opportunity to touch briefly on the historical background of this merger. The history of banking in Australia is of particular interest. It is a very rich and exciting history, because the banks have played their part in developing Australia in very many fields. The two merging banks—the A.N.Z. Bank and the E.S.&A. Bank—have, since their establishment many years ago, spread their influence in the commercial world throughout the length and breadth of Australia; and the A.N.Z. Bank has spread its influence to New Zealand, in particular.

It is of interest to note that the banking group will have representation not only in Australia, but also in New Zealand, Papua-New Guinea, the Pacific Islands, Tokyo, New York, and London. It will have representation at 1,650 points. In Western Australia it will have branches and agencies at 105 points, and will comprise 75 former A.N.Z. offices and 30 former E.S.&A. offices. Of course, no firm is complete without the staff to conduct the business. I understand that following the merger, the Australia and New Zealand Banking Group will have a staff of more than 17,000. In Western Australia it will have a staff totalling 1,174, comprising 718 former A.N.Z. Bank officers and 456 former E.S.&A. Bank officers.

This brings us to another interesting stage in the evolution of banking in Australia in that the merger of these two banks will reduce, from eight to seven, the number of trading banks which are operating. With the merger of these two banks the group will, in fact, become the second largest banking business in Australia—second only to the Bank of New South Wales. It will have quite a large portion of the Australian banking business.

The present merger is a continuing pattern of mergers that has gone on since the early colonial days of Australia. The first branches of the Bank of Australasia opened in Sydney in 1835, and of the Union Bank in Launceston in 1838. These two banks merged in 1951 and became the A.N.Z. Bank. Going back a little further, the predecessors of the A.N.Z. Bank comprised the Cornwall Bank in 1828, the Bank of W.A. in 1837, and the Bank of Australasia in 1835. These three banks merged into the Bank of Australasia, and it remained in this form until just prior to its merger with the Union Bank in 1951.

The Union Bank, which was a party to the merger in 1951, has a history of mergers with other banks, going back to the 1830s. It merged with such banks as the Tamar which was established in 1834, the Bathhurst which was established in 1835, the Archers Gillies which was established in 1840, and the South Australia which was established in 1836. So the merger covered by the Bill now before us is not novel to the two banks concerned.

The E. S. & A. Bank, which is one of the parties to the merger, was founded in 1852, and opened in Sydney in 1853. It absorbed three other banks during its existence; it absorbed the London Bank of Australia Limited in 1921, the Commercial Bank of Tasmania in 1921, and the Royal Bank of Australia Limited in 1927.

From what I have said, it will be seen that the merger of the two banks mentioned in the Bill has resulted from a merger of 12 banks in earlier times. It may be of interest to Mr. Wise to know that the E. S. & A. Bank was the first bank to operate in the Northern Territory —at Palmerston. The original building stood up for only 10 years, due to the ravages of termites. The second building of corrugated iron and steel framework was known as the "tin bank." I have been told that this bank building in Darwin is still occupied. Although it has not been confirmed, I have been given to understand that it is occupied by the newspaper operating in that area.

When the Minister introduced the second reading of the Bill he touched on the advantages that this banking group will confer on the people and the business community of Australia. I do not wish to cover the same ground, except to confirm that advantages will accrue to people from all walks of life and to all businesses conducted in Australia—whether trading takes place in Australia or overseas.

One of the functions of this new group —and this applies to all trading banks in this day and age—is to extend assistance to its customers to meet various needs. These include offers of assistance by way of expansion and diversification, inasmuch as banks will make preliminary surveys and investigations of market prospects in other countries. They will make market surveys in any particular area of Australia or New Zealand, as the case may be, and they will do feasibility studies in relation to any field of primary, secondary, or tertiary industry. One of the topical fields in which banks are interesting themselves in Australia is, of course, the field of oil and minerals. That area, is indeed, topical. However, trading banks have been vitally and traditionally concerned in the history of the development of rural industries.

I would like to dwell briefly on rural matters, because our trading banks, by their very nature, are clearly allied to rural industries. I took the trouble to work out some figures as at January, 1969, showing the advances made, under various categories, by the major trading banks in Australia. The figures revealed to me that of the total advances made by the major trading banks at that date, under the heading of agriculture, grazing, and dairying, a sum of $916,300,000 had been advanced which was 24.8 per cent. of the total. Then followed commerce with a total of $624,800,000, which was 16.9 per cent. of the total advances. Manufacturing showed a total of $614,700,000, which was 16.6 per cent. of the total. Other forms of lending came under the headings of transport, communications, persons, financial institutions, and so on.

It is apparent that banks have, by tradition and by encouragement from the Central Bank, given preferential treatment to rural industries. This has always been so, and I think it is underlined by the fact that the banks have gone into the rural areas of Australia to assist all types of people.

This system has been followed by the Commonwealth Development Bank. That bank, of course, has no connection with this Bill, but all trading banks act as agents for the Commonwealth Development Bank. I noticed that as at the 30th June, 1969, the outstanding loans made by the Commonwealth Development Bank to rural industries totalled $161,800,000. Loans made to industries amounted to $30,400,000, making a total of $192,200,000. A sum of $161,000,000 has been loaned to the rural sector and only $30,000,000 has been loaned to the industrial sector.

Another facet of the Commonwealth Development Bank is the hire-purchase section. Outstanding loans on equipment totalled $58,000,000, of which again the greater proportion was to the rural sector. So it can be seen that the whole banking system appears to be geared very heavily towards helping people in rural situations.

The group referred to in this Bill is a part of the whole scheme of banking. Coupled with this interlocking monetary system under which we operate, a new bank was born under Commonwealth legislation in November, 1967. I refer to the Australian Resources Development Bank,

which was born out of the co-operation of the trading banks and the Commonwealth Government. It is subject to Central Bank control and must conform to the policies formulated by the Reserve Bank of Australia. The bank commenced business in March, 1968, with a capital of $5,250,000. Of that capital $3,000,000 of the share capital was contributed in equal shares by each of the eight trading banks in Australia.

Of the eight original banks, two are affected by this Bill. The Australia and New Zealand Bank Limited and The English Scottish and Australian Bank Limited will become officially the Australia and New Zealand Banking Group, and this merger, to my mind, raises a somewhat interesting point. It is probably only academic, but it could have some bearing on the Australian banking system inasmuch as we will have the group bank holding a one-quarter interest in the Australian Resources Development Bank. The situation before this present merger was that each individual bank had a one-eighth interest. This raises the question as to what will be the attitude of the other trading banks to the situation where the Australia and New Zealand Banking Group will have a one-quarter interest whereas the other banks will have a one-eighth interest.

I would imagine that this matter is under amicable discussion and will be resolved, but to my mind it seems to be contrary to the original intent of the construction and establishment of the Australian Resources Development Bank.

Just touching briefly on the capital of the Australian Resources Development Bank, in addition to the capital provided by the trading banks $2,100,000 was provided by the Reserve Bank and $50,000 was provided by the Rural and Industries Bank of W.A. So it can be seen that the bank has been established from the capital, and with the co-operation, of the banking fraternity, guided by the Commonwealth Government.

The function of the Australian Resources Development Bank can be summed up in the following manner:—

> To mobilize financial resources at reasonable rates of interest from institutions and other investors in Australia;
>
> to borrow or raise overseas funds in the fixed-interest category on the most favourable terms possible;
>
> to re-finance loans made by trading banks for major developmental ventures;
>
> to provide loans direct and, in some cases, to subscribe equity funds to enterprises engaged in major developmental ventures;
>
> to require a substantial Australian interest in the ventures financed;
>
> and to give special emphasis to the development of natural resources particularly of mineral ores, oil and natural gas.

Those are the objectives of the Australian Resources Development Bank. May I say that this has a distinctly national flavour; a nationalistic Australian flavour, I should say. It is designed to marshall the financial resources of Australia for the development of industries within Australia. The capital funds have come from within the country, but the consortium also has the capacity and the power to attract capital from overseas if it so desires, or if it thinks fit.

This bank has, therefore, initiated what we could describe as new development of the capital market of Australia. I raise the query, myself, in respect of overseas capital participation, but I can see some advantages here that, where capital inflow to Australia may be at a relatively low ebb, it could be good business for the Australian Resources Development Bank to attract capital from overseas for investing in Australia. So this avenue is open, but I think it would need to be used with great discretion.

There is a problem, of course, in attracting capital from overseas inasmuch as if the capital is borrowed it has to be repaid under certain conditions. Those conditions may be forced upon the Australian scene at an inopportune time, so there has to be discretion as to how this would be used. Coupled with this type of development of the Australian banking system we have the more recent development which occurred in May of this year. I believe the Commonwealth Government enacted legislation to bring about the formation of the Australian Industries Development Corporation. This corporation is a little different from the Australian Resources Development Bank inasmuch as the Australian Industries Development Corporation will raise most of its borrowed funds from overseas, whilst the capital is owned by the Commonwealth Government.

It is intended to finance a wide range of Australian industries, especially mineral development. Once again, perhaps that is in contrast to the Australian Resources Development Bank which, under its objectives, sponsors all sections of the Australian scene. It is said that because of the bank's Government backed status to raise overseas funds for relending to Australian companies—which, although they may be large, may not be large enough to attract capital on overseas markets—it could attract capital at the most advantageous rate. The Australian Industries Development Corporation, by its activities, may be hoping to attract a source of funds to help Australian companies withstand competition from overseas combines. Maybe—and I use the word "maybe"—the Australian content will be increased in some industries.

The bank was formed under Federal legislation early this year and I have some grave reservations as to the real value of this type of banking in Australia. I think it has some inherent disabilities, but I do not propose to explain them at this stage. When we attract capital from overseas with a Government backed guarantee it does indicate to me that there could be a great deal too much control, bearing in mind that our Australian banking system, over the years, has been largely carried out by private enterprise banks which have taken risks. They have pioneered many districts, and all types of industries, throughout this country. They have assumed a flexible basis under the guidelines of the Central Bank of the day. I hesitate to suggest that the Australian Industries Development Corporation will be the success that some people hope it will be.

With respect to Australian banks—of which the group is one—another very interesting thought has occurred to me. We have very few foreign based banks operating within Australia; they are not encouraged at a Federal level. The whole banking system in Australia is controlled by the Government through the Central Bank and it is very difficult for a foreign bank to become established in this country. This does raise an interesting point. If we were to allow foreign banks to become established and operate fairly freely in this country in direct competition with our own Australian banks they would, in fact, provide a competitive spur to our Australian financial institutions.

It could be said that overseas banks would provide more overseas capital. But this is questionable. They would provide some, but just how much no-one would be able to tell us, and we must remind ourselves, of course, that at the present time we have several overseas banks working in arrangement with Australian banks to help finance long-term Australian development project industries. One point against allowing foreign banks to be established here is that our own Australian banking system probably already provides a sufficient service to meet all our needs.

One very important aspect of banking is the matter of foreign exchange; and if we permitted foreign banks to enter the commercial world in Australia we could expect them to exploit the lucrative field of foreign exchange. This is one of the most profitable lines in the banking business and foreign banks, if permitted to operate in Australia, could probably concentrate on overseas exchange rather than shouldering the burden of providing branches throughout the country and rural areas, the cost of which service is indeed relatively high as compared with the profits which can be derived from such banking facets as overseas exchange. In that line of business banks do not need to have so many physical branches scattered throughout the country.

We in Australia have a system whereby our Australian banks have a monopoly on the foreign exchange business. This takes place through the control of the Reserve Bank and all the trading banks act as agents for the Reserve Bank in this field. Under this system the trading banks benefit from favourable rates which are set out by the Reserve Bank, and those favourable rates are on the sale of exchange to customers and the whole business is shielded by the Reserve Bank. This eliminates the risks involved in this type of transaction inasmuch as the rates are fairly well guaranteed—they are, in fact, guaranteed.

This is rather different from what happens in many overseas countries, and I raise the point as an exercise to see just how it may benefit us as a nation if we continue in this way. In many overseas countries there is a free market in foreign exchange with all the banks competing against each other. There is a very fine margin of profit in this type of dealing; whereas under our protective system, with the backing of the Reserve Bank, there is a bigger margin of profit for the Australian banks. Therefore, under the free market system which operates in some overseas countries, without the protection of foreign exchange rates, the business is fairly competitive, naturally with added risks. Under such a system there is a lower margin of profit and, in some cases, the profit margin is very fine indeed.

Maybe industries and the Australian commercial world could benefit from this cheaper medium of trading between nations rather than perhaps operate under the more expensive system that we have at the present time. Conversely, we in Australia have protection and stability because of the backing of the Reserve Bank, or the Central Bank; but this stability is obviously costing industry in this country a price. Therefore, I raise the question as a hypothetical exercise at this stage.

The Hon. R. F. Claughton: As a nation, we wouldn't want to risk the instability to our currency that has, for instance, been caused to the British economy by speculators.

The Hon. V. J. FERRY: I agree that it does tend to a little instability in some cases. In that regard, Mr. Claughton is quite correct. Therefore, we need to have a proper balance between control and sufficient latitude to make the system beneficial for the Australian community at large. In other words, in my view our control should not be at a price which is too high, or at a price which will work against industry in Australia, particularly industry which has to compete on the world markets.

If our Australian banks were to lose the relatively high profit margin obtained from overseas trading they would, of necessity, need to increase their charges in other fields of operations. As I have mentioned, the cost of providing the branch system of banking throughout the country is rather expensive. In fact, many offices throughout the country are run at a loss, but the banks are prepared to carry this loss as a calculated business venture in the belief that some areas will in fact prosper and expand into viable communities. In some instances the banks set up branches to protect their outlets in some particular field. However, running throughout this line of development there is an awareness of an obligation to serve the community. If we take the trouble to read the history of banking in Australia we will see that all banks have taken risks in spreading their influence into every corner of the nation.

The Hon. H. C. Strickland: That would be at a price, would it not?

The Hon. V. J. FERRY: Yes, it has been done at a price. I must mention that a number of banks, to their disappointment, have suffered heavy losses in this sort of expansion. In some areas they have set up branches to service a community, even at a loss, realising that the district could be serviced by other means, but they have been prepared to do that.

If overseas banks were to come here, and if we were to have a free exchange system, without control through the Reserve Bank; and if, accordingly, the profit margin were decreased to a fine margin, it is unlikely, in my view, that foreign banks would give the type of service throughout the community that our Australian banks do today. It is obvious that they would not come to this country and establish a chain system of branch representation in a high-cost structure; because they would not have an incentive, profitwise, to do so. Therefore, this would work against the establishment of foreign banks in Australia.

Another very interesting point about this subject is the fact that if we did allow foreign banks to operate and become established in Australia it would allow us, as a nation, to encourage the establishment of Australian banks in overseas countries. We would have to look closely at this matter to see whether there would be advantages in our encouraging Australian banks, long-established in Australian traditions, to break into new spheres of activity in overseas countries, where this could be done.

I am sure this not a new thought; I feel certain the matter has been looked at very closely by many people over a long period of time. However, the time may come in the evolution of the banking world, and in the capital market throughout the world, when we in Australia will relax our banking regulations to allow some foreign banks to become established in Australia in return for an outlet into some profitable sphere of activities in foreign countries.

The Hon. I. G. Medcalf: We would have to look very closely at which countries we went into.

The Hon. V. J. FERRY: Certainly. There may be some very real doubts about the advantages of doing what I have referred to; but I believe the banking world in Australia, and particularly the Central Bank, which is encouraged by Federal Governments, needs to keep this sort of thing continually under review, as I am sure it does.

I believe we should dwell on these points for a moment because banks play a most important part in all of our lives, no matter what we do, and the banks mentioned in the Bill—and by this legislation they will become one group—are no exception. Those institutions are a fair sample of the service which has benefited the whole Australian community, and particularly the Western Australian community.

As we all know, because of its geographical size, Western Australia has some very real physical difficulties and banks have played their part in making our community a viable one. Therefore, the position has to be watched and we must make sure that we do not miss our opportunity in the evolution of banking, particularly when we are considering international mergers and in view of the fact that we are now turning from rural industries to the accelerated exploitation of minerals and emphasis on the establishment of secondary industries. Who would have dreamed 20 years ago that we would be in the situation we are today in Western Australia? The whole country has changed because of the development of natural resources and who can say that what will happen in 20, 50 or 100 years' time?

We need to be flexible to take the maximum advantage of all our opportunities and, as I have said, banking plays a very important part in all that goes on. Capital is required for all ventures and it is a matter of using capital to the best advantage. That is why I felt it might be worth while to contribute some thoughts along these lines when dealing with a Bill of this type.

As I said, it is a case of evolution and, bearing in mind the history of banking in Australia, I believe we will continue to have the private banking institutions playing a very real and responsible part in the development of this nation, and the State of Western Australia in particular, guided and encouraged, as they have been in the past, and probably will be in a more direct way in the future, by governments of the day.

I repeat what I intimated earlier: I believe the basis and the strength of our development, and the strength of our financial structure throughout the land, is very largely due to the initiative and flexibility of the private sector. When we come to the more determined guidelines, laid down by the Central Bank, or by a government one tends to become somewhat inflexible by the very nature of those controls. However, I do not believe that in a developing country inflexibility is a good thing. We need to take stock of the situation and to be courageous enough to take advantage of our resources, wherever and whatever they may be.

So I come back to the point that I believe we will see this partnership of the private sector and the Government, through the Central Bank under the influence of the Government, continuing; but I would like to stress the point I made earlier in respect of rural industries. I quoted figures which indicated quite clearly that the rural sector has received very favourable consideration by way of banking facilities for many years past. Indeed, that applies today, not only in the amounts of loans made available to the rural sector but also in the lower interest rates applicable to that sector. This has been an inherent feature of lending in the rural sector; that rural or primary industries, when borrowing from financial institutions, have a more advantageous interest rate than other industries. I think that is fair enough and I hope it will continue.

With regard to the plight of rural industries today I would say the banks have played their part over many years of good times and bad times. I know many harsh things have been said about banking institutions in times of adversity but, by the same rule, I believe that many people have felt the warmth and assistance provided by the banking system, principally the private banking sector of financial institutions, which has helped them to persevere, to win through, and to live to fight another day. I realise that many people have been unable to carry on in certain businesses, but this will always be the case. The banks have played their part in the community in the past and I trust they will in the future.

I think we should have a little more flexibility in respect of the rural sector, particularly as it applies today. I believe facilities should be provided so that trading banks, particularly, could make longer term loans at reasonable interest rates available to people in rural industries. This is most necessary today because we have so many rural industries at a disadvantage owing to circumstances well beyond the control of those in the industries. If we are to continue to encourage primary industries we must be more tolerant and grant appropriate loans for appropriately long terms at reasonable interest rates. However, I do not mean that loans should be made to every applicant.

The PRESIDENT: Order! I direct the attention of the honourable member to the fact that there is nothing about the rural sector in the Bill. He will address himself to the Bill.

The Hon. V. J. FERRY: Thank you, Mr. President; I respect your ruling. I was merely referring to the role played by trading banks in the community, and the role I hope the Australia and New Zealand Banking Group will continue to play in the years ahead. It is in that context that I refer to this matter because I believe that trading banks must continue to play their part for the very reasons I suggested a little earlier; that is, they know the local situation and they themselves are a part of the community. I believe in most cases they know best whether money should be loaned or whether it should not be loaned. There is an old saying amongst the banking fraternity that many people have been helped by being granted loans, and many have been assisted by being refused loans because, in fact, they would not have benefited from the money advanced.

I make these observations today in the belief that these two banks, once merged, will go forward and continue to play a part in the development of this State and of Australia. As I said at the outset of my address, I wish them well. I have studied the Bill to the best of my ability and the provisions are largely what might be termed machinery provisions. I see nothing in the measure that is suspect by way of giving one bank or the other any advantages or loopholes in respect of its existing responsibilities or duties to the State. Therefore, I have much pleasure in supporting the third reading of the Bill and wishing the group well.

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Justice) [5.35 p.m.]: I listened with interest to the remarks made by Mr. Ferry. I think the only matter he mentioned about which I should perhaps make some comment is the part played by the A.N.Z. Bank and the E.S. & A. Bank in relation to the shareholding of the Australian Resources Development Bank. Whilst I do not think their shareholding in the Australian Resources Development Bank is connected with this Bill, I am told that the matter is under discussion at the present time by the Australian Resources Development Bank Board.

A further matter which I would like to amplify a little is that raised by Mr. Willesee in relation to the term "excluded assets" when he spoke to the second reading of the Bill. I think I have already given a satisfactory reply, but I will attempt to amplify it a little. The reason for the use of the term "excluded assets" is: because those assets relate to the

various premises of both banks, some of which will become surplus to requirements, it has been decided to leave them in the names of the old banks at least for the time being. A building or a security of the banks will become an excluded asset and will not, in fact, be physically transferred to the group. As the shareholders of both banks have now become shareholders in the group bank, their indirect interest in the excluded assets is unaffected.

I think that answers the question raised by Mr. Willesee, and I do not think any other points need amplification.

The Hon. W. F. Willesee: Before you conclude, do you think the Treasury officials are quite satisfied that the State will receive all the fees it is entitled to receive under the merger?

The Hon. A. F. GRIFFITH: This is laid down in the Bill. The honourable member might remember that in my second reading speech I related to the House that the banks had undertaken, under this Bill, not to evade stamp duty payable to the State. I understand that the Commissioner of State Taxation is satisfied that this will be the case.

The Hon. W. F. Willesee: Yes, I remember your saying that.

The Hon. A. F. GRIFFITH: I am trying to find the relevant clause in the Bill. I think it is clause 25, which states—

> 25. Nothing in this Act exempts any person from payment of duty chargeable under the Stamp Act, 1921, or from payment of any fees payable by or under any Act.

The two banks gave a guarantee that it is not their desire to evade any stamp duty payable in the event of the transfer of any of the assets taking effect under any other Act of the State which would normally be used if this Bill had not been the medium of bringing about the merger. I hope that satisfies the honourable member's curiosity, and I thank him and Mr. Ferry for their remarks.

Question put and passed.

Bill read a third time and transmitted to the Assembly.

BILLS (3): RECEIPT AND FIRST READING

1. Honey Pool Act Amendment Bill.

   Bill received from the Assembly; and, on motion by The Hon. G. C. MacKinnon (Minister for Health), read a first time.

2. Metropolitan Water Supply, Sewerage, and Drainage Act Amendment Bill (No. 2).

3. Local Government Act Amendment Bill (No. 2).

   Bills received from the Assembly; and, on motions by The Hon. L. A. Logan (Minister for Local Government), read a first time.

WORKERS' COMPENSATION ACT AMENDMENT BILL (No. 2)

Second Reading

Debate resumed from the 10th September.

THE HON. R. THOMPSON (South Metropolitan) [5.43 p.m.]: Members will recall that in the last session of Parliament a rather comprehensive set of amendments to the Workers' Compensation Act was introduced. In all, 14 sections of the Act were amended; the first schedule was amended; and the second schedule was replaced by a completely new schedule. During my speech on that occasion I pointed out to the House that although recommendations had been forwarded to a special committee set up by the Minister to inquire into the Workers' Compensation Act, not all of those recommendations were agreed to by the committee. The outstanding recommendations that should have been considered by the committee comprised 16 from the Trades and Labor Council, two from Dr. McNulty, one from the Chairman of the Workers' Compensation Board, and 15 from the Law Society. I would like to place particular emphasis on the recommendations of the Law Society because at a later stage I shall deal with a judgment given in the Supreme Court.

Although there has been some progress in connection with our Workers' Compensation Act I feel its provisions are still not completely satisfactory at the present time. This small Bill before us seeks to amend three sections of and the first schedule to the Act. These matters were not recommended to the Minister by the committee of inquiry. The Minister has taken it upon himself—and I feel rightly so—to introduce these necessary amendments.

The first amendment in the Bill seeks to alter the interpretation provision in section 5 of the principal Act by adding a new interpretation of "widow" or "wife." I think the proposed interpretation is reasonable, because it will allow a person who has been living under a *de facto* arrangement for a number of years to claim compensation for herself and her children in the event of the death of her *de facto* husband who is the wage earner. This can be done under section 5 at the present time if the man in question is on weekly payments.

I think it might be appropriate if I read to the House the interpretation of "widow" or "wife" which clause 2 seeks to add to the interpretations in section 5 of the Act. It is as follows:—

> "Widow" or "Wife", in relation to compensation payable in respect of the death of a worker, includes a woman who for not less than three years immediately before the worker's death, although not legally married to him,

lived with him as his wife on a permanent and *bona fide* domestic basis and "Wife", in relation to any time while a worker is being paid weekly payments of compensation, includes a woman who, at that time, is living with him as his wife on a permanent and *bona fide* domestic basis, although she is not legally married to him, and who has been so living for not less than three years immediately before that time.

This is a very good provision to have in the Act, because in a case that was before the Workers' Compensation Board several years ago the board had to find against the wife of a worker who was legally married in another State. There were two children of that marriage and the man in question deserted his wife and came to Western Australia where he established a *de facto* relationship with another woman. He lived with that woman for nearly five years and a child was born of that union. In determining this case the Workers' Compensation Board ruled that the *de facto* wife and the child were the ones who were entitled to compensation.

The board ruled that the lawful widow who resided in another State and her two children of the lawful marriage were not entitled to compensation. This finding was challenged in the Full Court. I will refer to the case as "H," and it can be found in the Western Australian Reports for 1968 at pages 161 to 173.

I do not intend to mention any names, but I do think it is as well for us to know where we are going when dealing with legislation of this kind. I am not very happy with the various interpretations in the Act at the moment, particularly as these relate to dependants, widow or wife, or children. At page 172 of the Western Australian Reports Mr. Justice D'Arcy had this to say—

> The proposition that the 1948 amendment was capable of application to the worker himself and should be so applied was also advanced by Mr. Toohey in support of the claim for inclusion by the . . . . children. Mr. Heenan contended for endorsement of the Board's conclusions.
>
> That the passage added by the 1948 amendment has created an acute problem of construction needs no emphasis. It is, of course, the function and duty of courts so to construe the words of Acts of Parliament as to give a sensible meaning of them, it being a cardinal rule of construction that a statute is not to be treated as void, however oracular. And so the alternatives to acceptance of defeat must be considered. These are the two constructions already adverted to. If the 1948 amendment is to be so construed that the worker cannot be regarded as the person assuming parental status, then, notwithstanding the fact that the worker provides from his earnings support which it has been seen is significantly indicative of assumption of parental duty, that fact must be disregarded.

It can be seen that Mr. Justice D'Arcy was not very happy with the amendments which were included in our interpretation section in 1948. Incidentally, the words in question are still contained in the interpretation provision.

I do not propose to go through the details of the case although I think it is one of the most interesting I have had the pleasure to read, inasmuch as we find the Workers' Compensation Board ruling one way in accordance with our present Act; a justice of the Supreme Court disagreeing with three of the questions asked and agreeing with one of the questions on which a ruling was given; while, at the same time, his two learned colleagues disagree completely with the Workers' Compensation Board.

As a result of the rulings to which I have referred I am at a loss to know who is to be entitled to compensation under the law if this Bill is passed. Is it to be the lawful widow who has been deserted by her husband with whom she has not lived for a number of years and who has not been maintained by him over that period; or is it to be the person referred to in clause 2 of the Bill—the woman who had established a *de facto* relationship with the man in question three years immediately preceding his death? Can the Minister tell me whether compensation will be payable to the lawful widow who has not been maintained by her lawful husband, who may not have honoured a maintenance order issued against him? Can the Minister also tell me in what proportion the compensation will be payable?

I prepared some questions of which I gave the Minister some prior notice and I do hope he will be able to give me the answers to these questions, because I believe it is very necessary for the House to have them. The questions were as follows:—

> Which of the following persons will receive compensation and what amounts will be payable—
>
> (1) The lawful wife of the deceased worker?
>
> (2) Each of the three lawful children of the wife of the deceased worker?
>
> (3) The *de facto* wife of the deceased worker?
>
> (4) The child of the *de facto* wife and the deceased worker; and
>
> (5) The two children of the *de facto* wife's lawful marriage who were part of the household of the deceased worker and the *de facto* wife?

These are complex questions to which we should be given answers, because I think it could rightly be argued that compensation should be paid in a case where a man and a woman establish a *de facto* relationship and where the woman has two lawful children from her previous marriage and other children while living under a *de facto* arrangement. Surely all the children who are dependent on the worker and are living in the one household should be entitled to some compensation payment in the event of his death.

I think this should be so, particularly if it can be proved that the wife or her legal children have no other source of income or maintenance available to them. One learned judge has ruled that in such cases the people concerned are entitled to some form of compensation under the Act. Two other learned judges, however, consider that the persons in question are not entitled to compensation. Provided the worker does not die of injuries or suffer permanent handicap he is in a position where he can claim weekly compensation payments.

I hope the Minister will answer the questions I have asked him, because I do not think we can accept an interpretation to suit a particular occasion. Over a number of years there have been additions to and deletions from the interpretations contained in the Workers' Compensation Act. These interpretations are most complex. When the Workers' Compensation Board cannot understand them, and when judges of the Supreme Court criticise them, it is time we did something about such interpretations. I do not suggest that this should be done here and now, because it is a matter upon which we would require a considerable amount of legal advice and there would need to be a good deal of clear thinking before any finality was reached.

I would honestly suggest to the Minister that he give due consideration to this with the object, at a later stage in this session, if possible, of introducing legislation to clarify the interpretations, as at present they are not clear at all.

The next amendment, which is in clause 3, is to section 7. This provides that the wife of a worker who, as a result of his own wilful neglect, is killed or permanently or seriously disabled, may claim compensation. Members will recall that last session I quoted the case of a policeman who was killed when returning to Kalgoorlie from Menzies. Because on the way he had had a few drinks, his wife and children were not granted compensation. It was considered that his death was due to his wilful neglect.

I think this is a worthy amendment. When we tried to have it included last session it was rejected, but I sincerely trust that, now the Minister has submitted it, the House will pass it.

The Hon. J. Dolan: Is it retrospective?

The Hon. R. THOMPSON: Unfortunately, no. One section of the Act, inserted last year, does give some form of retrospectivity, but, other than the provision concerning pneumoconiosis, that is about the only retrospective provision that has ever been included in the Act since it was first introduced in 1912.

The next amendment deals with mesothelioma. This was omitted from the legislation last year and is now being included.

Under another amendment in the Bill the first schedule payments have been increased. Last year, as members know, we were rather critical of the weekly payments to a worker, his wife, and dependants. The Trades and Labor Council submitted to the Minister in charge of the Act a request that these payments be brought into line with those provided for in all other Australian Acts. We recommended that at least a figure of $27 should be inserted. This was then the Australian average, but this amount was rejected because the figure then proposed was what had been determined by the committee.

Despite the fact that at that time increases had been made in the payments in other States, the Minister was not prepared to increase them in this State. However, they are to be increased under this Bill, but to me they still are not satisfactory. No person who is injured should have to live on a reduced wage. In such circumstances not only does the worker himself suffer, but also his wife and family suffer as well. In many cases the wife has to go to work and the children are then deprived of her company also.

It is argued that the average weekly income is approximately $66. I am not taking all categories into consideration but am talking about white and blue collar workers. However, a large number of people still take home only the bare basic wage of $36 plus a few odd cents each week. If we study the amounts payable in all States—and I am dealing with the base amounts plus the allowance for the wife and for one child—we find that in New South Wales the figure is $36, which is practically the equivalent of our basic wage; in Victoria the figure is $28.50; in Queensland, $40.65; in South Australia, $39.50; and in Western Australia, the figure is $37.60. In referring to Western Australia, I am quoting the amount which will be paid under this Bill if it is passed. The figure would be several dollars lower if I quoted the old one. When this Bill is passed the compensation payable in Western Australia to a worker with a wife and one child will be $37.60.

Sitting suspended from 6.06 to 7.30 p.m.

The Hon. R. THOMPSON: Prior to the tea suspension I was quoting the different rates of workers' compensation in the various States of Australia which are applicable to the adult male, including the

wife's allowance, and the allowance for one child. I think I finished by saying that the compensation payable in Western Australia, under the amendments foreshadowed in the measure, would be $37.60. In Tasmania, the amount would be $40.80. At present the Commonwealth rate is $37.45, but the Federal Parliament has before it at the present time legislation which proposes to raise this amount to $42.50. Therefore, if we take the Commonwealth rate as $42.50, the Western Australian rate as $37.60, and take the average of the other States we find that the workers of Western Australia will not be dealt with graciously as far as income for incapacity is concerned.

The level which is desirable and should be applicable is the average weekly earnings of the worker, because families have commitments. Irrespective of the trade or profession of the worker, there are not too many families in Western Australia which do not have commitments of one sort or another. A person who is injured should not have his income reduced by something like $20 per week. This kind of treatment does not help the worker to recover. Frequently we find that workers ask their doctors to send them back to work in an unfit state simply because they cannot afford to live on the compensation that is payable to them under our legislation.

Earlier on, I was dealing with the amendments to the first schedule. The minimum payments are a slight improvement on those appearing in the Act and the wife's allowance has been put up by a matter of cents. I do not think this will be a remedy for the situation, as I have just explained.

I would like to return now to the proposed amendment to section 5. I have received a letter from the Trades and Labor Council over the signature of Mr. J. Coleman, the secretary, which points out that the Trades and Labor Council is not happy with the proposed amendment to the interpretation of "widow" or "wife." The Bill states a qualification that the person concerned has to live in a *de facto* relationship for not less than three years immediately before the death of the worker. I can see all sorts of problems arising from this qualification.

I know, and in all probability other members know, of people who have lived together in this situation not for three years but for 40 years, and have raised families. Frequently they are highly respected members of the community. Let us have a look at the case, which is not uncommon, of people who have lived together for, say, 15 years and have four or five children by the *de facto* relationship. Let us suppose that these people intended to live together for the rest of their lives and were quite happy together. The husband could easily decide that his wife should go on an extended holiday to England, Europe, or even around Australia. If the wife was away for a period of three months, which would not be unreasonable, or even possibly for a period of nine months in some cases, I would say that the qualification of having to live together for three years immediately before death would rule her out of any compensation if her husband was killed during the period she was away. I think this is a fair assumption.

Other matters should be taken into account in this respect. For example, a wife could be hospitalised through a serious illness, or temporarily committed to an institution through some mental disorder. I can see that all these circumstances could rule her out of an entitlement to compensation.

I do not intend to move any amendments, but I think the committee the Minister set up, which brought down recommendations last year, should be reconstituted. After all, it was a representative committee and was not loaded in any one sense in that all interested parties had representation. If the committee were reconstituted, its members would have an opportunity to examine these types of problems in detail. Indeed, if sufficient members in this Chamber were interested and formed themselves into a committee, in all probability we could examine interpretations which have been subjected to criticism by learned judges. In my opinion they have been rightly subjected to criticism.

It is my firm opinion that many aspects of the legislation need to be tidied up. Possibly the best way to do this would be to rewrite the Act, because bits and pieces are still being added to legislation that was first enacted in 1912. No comprehensive review of the Act, as such, has taken place and it has not been rewritten in any shape or form. Instead, bits and pieces have been inserted by way of amendments over the years. I consider this is the reason for much of the confusion which exists, particularly with employers and insurance companies.

A case which comes readily to mind is that of a person who is able to claim compensation because he has been forced to take a lighter job through his injuries and is receiving less wages. I telephone one insurance company two or three times every three weeks to try to get it to make payments. Confusion exists in the minds of the staff of the insurance company, because they are not clear on the Act and what it means. I will say, however, that after discussions the insurance company in question eventually sends a cheque. Yet, this is not good enough. The Act and the definitions within it are not sufficiently clear. It is our duty, as legislators, to ensure that legislation is as clear as possible.

We have been rightly criticised on this measure and I trust that the Minister who has draftsmen at his disposal will ensure

that a thorough review is undertaken. By this I do not mean that those undertaking a review should look only at the Western Australian Act as it stands; they should also look at the various other Acts which exist throughout the Commonwealth and take them into consideration. Better still, the Minister for Health, who is handling the Bill in this Chamber, might like to take the matter up at one of the conferences of Ministers for Health, because compensation is a matter of health—a matter of returning a worker to good health. This should be done with a view to bringing down uniform legislation throughout Australia.

A short time ago I read out the payments made in the various States and in the Commonwealth. It is unfair that a worker in one State should receive a different amount from a worker in another State or in the Commonwealth Territories. After all, living standards in the States are comparable; that is, the living standard of a worker in Western Australia is comparable with that of a Commonwealth employee or someone who lives in Tasmania. I cannot see any reason for a differential in the rates of payment.

I think this is about the eleventh time in 11 years that I have spoken on workers' compensation. Almost every year some minor amendment to the Act is brought forward and last year, of course, a major amendment was passed. Despite the time and thought which I have devoted to the Act, I become more confused as time goes on.

I trust I will be able to pronounce correctly the word "mesothelioma" which is referred to in the Bill.

The Hon. W. F. Willesee: No-one will argue with you.

The Hon. R. THOMPSON: Clause 4 of the Bill states—

> 4. Subsection (1a) of section 8 of the principal Act is amended by adding after the word "pneumoconiosis" in line three, the passage "or, on and after the 8th May, 1970, mesothelioma".

I only picked this date up a short time ago and I have not checked it out in detail with the principal Act. In all probability the Minister will be able to tell us why this particular date has been included. From memory, the section of the Act in question was last amended in 1966. Does it mean that the date has been stipulated because of the amendments which were included at that time? Does it mean that someone has died from this disease since the 8th May, 1970, and compensation will be payable to his widow or family? Does it mean that this is the date on which the last amendment dealt with by this Chamber came into operation? I would like to know why this particular date has been inserted.

With those remarks, I support the legislation. I cannot say I am happy with it and some of the amendments should have been included in May this year, as we requested. We have found that people are being disadvantaged, and have been disadvantaged, by the Government not acting at that time. Nevertheless, the workers in Western Australia in particular have to be thankful for any small morsels which are thrown to them so far as workers' compensation is concerned. These comments could apply to Victoria and, to some degree, to South Australia in the past. At least in South Australia, a small amount of light now seems to have been thrown on the Workers' Compensation Act of that State, but there has been very little so far as Victoria is concerned. Although I am critical of the Victorian legislation, I still think that the interpretation of "widow" and "wife" in our measure should not contain a qualification that the parties concerned should have lived together for three years immediately prior to death. In this respect we should accept the Victorian recommendation and allow the Workers' Compensation Board some discretion.

What will happen if a worker dies and his *de facto* wife can only establish that she has been living with him for two years and 11 months? She is automatically ruled out, and if she were pregnant her unborn child would also be ruled out. I can see injustices developing if this provision remains. Although I support the Bill at this stage, I hope and trust the Minister will have a close look at the position with a view to amending it as soon as possible.

THE HON. G. E. D. BRAND (Lower North) [7.46 p.m.]: These amendments to the Workers' Compensation Act are very pleasing because they give us an opportunity to discuss two very important matters that appear in the Bill; that is, *de facto* relationships and death or injury to a worker resulting from wilful misconduct.

As regards *de facto* relationships, I do not intend to cover the matter as thoroughly as Mr. Ron Thompson did, but it amazes me that some action has not been taken long ago to do something about the facts which bring about *de facto* relationships.

The Hon. R. Thompson: It has been attempted many times before and has not got past this Chamber.

The Hon. G. E. D. BRAND: Not in my time, apparently. We often hear it said that the law is an ass. Perhaps it is not, but I think some investigation should be made into the reasons for *de facto* relationships in an endeavour to bring about a situation in which they just do not occur. We can imagine a man or a woman being placed in a certain situation through marital troubles. We strike this frequently

in country towns. In my previous occupation, this problem often came to my notice. A woman might be placed in an unhappy situation by a husband who preferred to drink, waste money, gamble, and so on, which made life so impossible for her that she had to make her living on her own and take her children with her. Invariably we find that such a woman will set up an alliance with some kind-hearted man who is prepared to look after her and her children.

When I was a lad, this sort of situation was spoken of in hushed whispers and many of the old-timers looked down their noses, but in this permissive age such things are more or less taken for granted when they occur. I remember the story of a couple who were voted the most popular couple in the town. They were so successful that they won a prize, after which they said, "We might as well get married." Once they were married, it was not very long before they were divorced. As that story comes from the *Reader's Digest,* I have no doubt it is true.

People are often forced to seek an alliance with the opposite sex for protection, home life, education for children, and things like that. If possible, divorce from the former mate should be made easier. These days, a divorce costs a lot of money, and a good deal of time is involved in waiting for a divorce, although when a woman is in a certain condition the divorce can be hastened. It always amazes me that people have to run around and find a private investigator to obtain the evidence against a defaulting partner. I do not think that should be necessary. When people have an open-and-shut case they should be able to go before a judge, put their cases fairly and squarely, and, assuming they are honest, the divorce should be granted without the trouble of getting solicitors, going before a court, and having private affairs made public, although the facts are not printed in the Press.

I hope something will eventually be done along these lines. Many people are very much against making divorce easy—I suppose we all are—but I think in a genuine case something should be done to help people—

The DEPUTY PRESIDENT: Order! I would point out to the honourable member that we are discussing the Workers' Compensation Act, not the matrimonial causes Act.

The Hon. G. E. D. BRAND: Thank you, Sir. I want to mention one other thing. When one reads about a man who, through his own negligence, contributed to his death or serious and permanent disablement, one's first impulse is to say, "That serves him right." We tend to forget that many firms, large and small, employ safety officers whose duty it is to ensure that accidents, even through carelessness, are very rare. I have noticed that when accidents do occur invariably union officers go along to inspect the scene of the accident and take steps to ensure that the same thing does not happen again. I am pleased that when such accidents do occur the women and children, as well as the worker who is hurt, will be covered.

THE HON. CLIVE GRIFFITHS (South-East Metropolitan) [7.52 p.m.]: I support the Bill but in doing so I would like to say that some of the comments made by Mr. Ron Thompson coincide with thoughts I have on the matter, particularly in relation to the static three-year period. I have previously expressed my opinion on this matter outside the House.

I believe that in coldly and emphatically setting down a three-year period justice will not necessarily be done in particular cases. I think we should make the provision far less stringent and much more flexible, as has been suggested by Mr. Ron Thompson. I have risen merely to put forward that particular point.

However, while I am on my feet and speaking about workers' compensation, I will also take the opportunity to make an observation about a situation that I have had brought to my attention to which I feel some consideration should be given. I refer to the situation of a school teacher, for instance, who, in the course of his or her duties at a school, looks after young children, particularly infant children, who are subsequently found to have contagious diseases. One disease that comes to mind is hepatitis, which is highly infectious. A school teacher in the course of duty could become infected and his or her life could be endangered. I give the example of a school teacher but the same thing could apply to other employees.

I believe we ought to give some consideration to bringing this sort of case under the Workers' Compensation Act. A disease can be accidentally picked up through the exercise of a school teacher's duties in taking intimate care of young first or second-year school children. While it probably has nothing to do with this Bill, I am taking the opportunity to bring this matter to the attention of the House.

My main purpose in speaking is to support the remarks made by Mr. Ron Thompson. I do not believe we should stringently apply the three-year period. I have had experience of other Acts in which a particular period is set and somebody misses out by 24 hours. Such a stipulation cannot be budged, no matter how worthy the cause or how desperate the situation. If the law states three years, three years it must be. I think the provision should be more flexible but I support the Bill.

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

PREVENTION OF CRUELTY TO ANIMALS ACT AMENDMENT BILL

Second Reading

Debate resumed from the 10th September.

THE HON. R. F. CLAUGHTON (North Metropolitan) [7.58 p.m.]: First of all I wish to draw the Minister's attention to two sections in the Act in which further amendment may be contemplated. These sections may have been inadvertently overlooked.

In the second last line of section 14 of the Act reference is made to "constable or officer of the Society," as contained in section 13. Section 14 refers back to section 13. Perhaps the Minister could consider whether section 14 also requires amendment by insertion of the words "veterinary surgeon."

Subsection (7) of section 23 states—

> For the purposes of section three which relates to offences of cruelty . . .

It is not clear whether this refers to paragraph (h) of section 3, which defines an owner, or whether it refers to section 4, which relates to offences of cruelty. I wonder whether this is a misprint in the Bill. As we are amending the Act, it might be an opportune time to examine whether an error has been made here.

In general, the amendment seeks only to update the penalties prescribed in the Act. It is proposed to amend eight sections of the Act where the existing penalties are obsolete and I do not think any objection can be taken to that. We might compare these penalties with the penalties that are prescribed for cruelty to children, for instance, and when we do make an examination of an Act such as this we should ensure that the penalties to be prescribed are reasonable.

The Minister cited two or three recent instances of cruelty to animals. I would like to review these briefly and relate them to the purpose of the Bill in attempting to deter cruelty to animals. One of the instances referred to by the Minister involved a number of chickens at Kalgoorlie where the owner, if my memory serves me right, was involved with the local council in regard to the conduct of his business as a poultry producer. I believe that this man did commit an offence against the Act, but it is not the type of offence that is likely to be repeated, and if we are concerned about cruelty to animals I consider that in prescribing penalties we should direct our attention towards preventing a similar occurrence, otherwise the mere increase in penalty does not achieve a great deal. In the case of the poultry producer at Kalgoorlie the circumstances surrounding the condition of the chickens were almost outside his control.

The second case instanced by the Minister involved a puppy in a pet shop. The owners of the pet shop left some animals unattended over the weekend whilst they were absent from the district. These people were conducting a business and relied on it for their livelihood. In my opinion this is the sort of case where the provisions of the Act would have the greatest effect in preventing a similar occurrence. If the people in question had thought that the care of the animals in their pet shop was to be kept strictly under surveillance, I feel sure that greater attention would have been paid to the animals under their care.

The degree of the penalty prescribed is not so much a factor in ensuring that a person does attend to animals under his care as is the proper supervision of his business. If the proprietor of a pet shop knew that an officer would be inspecting his premises to ensure he was taking proper care of the animals in the shop, a penalty of $20 or $40 would not make much difference. If we increased the existing penalties three or four-fold it would not prove to be a great deterrent. The real deterrent is the fear of being caught ill-treating an animal.

The third case referred to by the Minister involved the ill treatment of cats and one wonders whether the provisions in the Act would have any effect in preventing a similar occurrence. I would think that those who committed the act of cruelty in this instance would be young people and if they were able to look ahead to the penalty they would incur—possibly a penalty of imprisonment—I think they would also be able to consider more carefully what they were doing to the animals.

If our purpose is to prevent this kind of action any increase in the penalties will have very little effect. I am also of the opinion that cruelty to animals or an act of vandalism of any kind is more a social problem than a problem to be dealt with under this legislation. I support the provisions in the Bill. I feel they are mainly directed towards people who have animals under their control as part of conducting their daily business rather than towards those who commit an act of cruelty against an animal or some act of vandalism.

The amendment which seeks to include a veterinary surgeon among those who can take action in those instances where animals are badly treated, or are placed under some sort of stress, is reasonable. I therefore support the amendments proposed in the Bill.

THE HON. E. C. HOUSE (South) [8.07 p.m.]: I am not happy with all the provisions in the Bill, although I admit that some are fairly sound. However, I wonder whether we gain a great deal merely by increasing penalties. We have heard cited some cases of cruelty to animals and I

venture to suggest that in a large proportion of those cases the culprits have not been apprehended.

It is not of much use providing stiffer penalties for cruelty to animals, because I think it would be most difficult to try to trace people who singe cats, hang dogs, or commit other similar acts of cruelty. In the case of animals being left unattended in a pet shop over the weekend, the penalty imposed was $100, and I feel it was adequate. The value of the animals would not have been very great and I am quite sure that the penalty of $100 was in itself sufficient deterrent to prevent a similar occurrence.

In speaking to the Bill I am referring mainly to cruelty to cats and dogs and the penalties prescribed for such offences. I wonder what cruelty really is when one seriously considers the proper definition of it. After all is said and done I think most members have often seen a cat catch a mouse and play with it and torture it for hours on end. This is an instance of one animal being cruel to another.

The Hon. G. W. Berry: What about a cat fight?

The Hon. E. C. HOUSE: Yes, and there is nothing worse than a dog fight.

The Hon. G. C. MacKinnon: Surely the honourable member would differentiate between cruelty inflicted on an animal by a person and the normal reaction of one animal to another?

The Hon. E. C. HOUSE: No, the animal would still be subjected to suffering. Let me take the argument a little further to cite man's inhumanity to man. In time of war one really sees how cruel men and nations can get. I am getting away from the Bill; but, nevertheless, I think I have answered the Minister's question on this point.

No doubt members have seen around country towns dogs which are almost to the point of starving. As a result many of them attack sheep. It is a terrible sight to see a sheep with all its wool plucked off and with gaping holes in its side.

The Hon. L. A. Logan: The point is that you shoot the dog but you do not shoot the human being.

The Hon. E. C. HOUSE: Yes, that is so. The point I am trying to make is that it is most difficult to catch any person who commits a breach of this Act. The existing penalties are stiff enough and those who are caught committing an offence against the Act appear to be those unfortunate people such as a mother with five children. When a penalty is inflicted on such a person it is quite a setback.

I will support the Bill but I am trying to make the point that I am opposed to penalties being increased because I do not think they will achieve the purpose that is intended. Any person who committed an act of cruelty to an animal would not be aware of the increased penalties. During the debate on the second reading I think it has been said that the increased penalties would act as a deterrent, but in my opinion I do not think anyone would realise that the penalties had been increased.

The Hon. R. Thompson: You are starting to agree now with what I said about the penalties in the Fauna Conservation Act Amendment Bill; that is, people would not be aware they were breaking the law.

The Hon. E. C. HOUSE: Yes, this is so. Also, as I have said, the penalties are inflicted on those people who can least afford them, as was the case with the mother of five children. No-one likes to see cruelty to animals, but I do not think that any person who commits an act of cruelty stops to think of the penalties he might bring upon himself.

One wonders who thought up this Bill so that it could be presented to us at this particular time. I know we are short of legislation and it is desirable that we should have some Bills on the notice paper so that we do not run out of work. Although I support the Bill I lodge my protest against those provisions to which I have referred.

THE HON. G. C. MacKINNON (Lower West—Minister for Health) [8.14 p.m.]: The point raised by members in regard to penalties and the policing of the Act is one that has been given a great deal of thought by every Government and by many legislators. In most of the arguments advanced one can find very little with which to disagree, because one constantly asks oneself whether increased penalties are necessary, but what other solution is there?

I said the other day that if we complied with all requests for appointing police officers every second person in the community would be policing the actions of his alternate.

The Hon. G. W. Berry: All the community would be policing.

The Hon. G. C. MacKINNON: We would get by with 50 per cent. of the community acting as policemen. It never ceases to amaze me that some people in the community frequently say that we should not have too many policemen; yet what some members have asked for is a reduction in the penalties but an increase in the ability of the authorities to apprehend the offenders—in other words, to have an increase in the number of policing officers. I would point out there are insufficient officers to do everything that has been suggested. Apart from that I consider personally that it would be undesirable to appoint more officers.

There is a difference between cruelty that is inflicted by human beings on animals, and the apparent cruel behaviour

of one animal to another. One would find it quite abhorrent that a human being should behave in a fierce and bloody manner—which is cruelty—towards animals, whereas one would agree that it was necessary for a predator animal to attack and devour another animal in order to survive. In the latter case the animal does not derive any pleasure from the act. It is merely an act of survival. The fact that a killer whale kills other sea creatures in order to survive, and the fact that an eagle takes off with a rabbit, are means of survival. However, when a human being pins a cat to a tree, or does the sort of thing we are thinking about in discussing this measure, it is an act of cruelty, especially when the human being derives pleasure from inflicting the pain.

The Hon. E. C. House: In both cases the same amount of pain is inflicted.

The Hon. G. C. MacKINNON: This is like saying that black is black, and white is white. It is a question of the mental reaction to the situation. In one instance the act of killing is a means of survival, but in the other it is not. A person who inflicts pain on an animal, with indifference and with pleasure—and this is the definition of cruelty—is doing a needless act. In the other case the animal is killing in order to survive.

There is no doubt that we have set our minds against cruelty to animals, and I am delighted that members are prepared to support the Bill despite their cavil with one or two aspects of it. I think Mr. Claughton was right on both of the points he raised. Perhaps we should include in clause 14 a reference to a veterinary officer; and there is a distinct possibility that the other clause he mentioned should, in fact, refer to section 4 and not section 3. In order that I may check on the two matters which he has raised I will not proceed with the Committee stage. After the Bill has been read a second time the Committee stage can be taken tomorrow.

Question put and passed.

Bill read a second time.

AERIAL SPRAYING CONTROL ACT AMENDMENT BILL

Second Reading

Debate resumed from the 9th September.

THE HON. J. DOLAN (South-East Metropolitan) [8.20 p.m.]: The progress of the legislation on the subject of aerial spraying control, since it was introduced in 1966, has been most disappointing. On that occasion I spoke at considerable length, and the remarks I made are to be found on pages 2186 to 2190 of the 1966 *Hansard*.

I have used this analogy before: I can perhaps compare the attempts to get this legislation off the ground with the attempts to get the F111 aircraft off the ground. In 1966 I made the suggestion that the Government should withdraw the Bill and reintroduce it at a time when things were more certain. We have passed from 1966 to 1970, but still the Act has not been proclaimed. So, the legislation has not been operative.

On this occasion I am disappointed with the Minister's speech, but I do not criticise him for what he had to say because he was the third Minister to have a hand in this legislation. When the measure was introduced in 1966 The Hon. G. C. MacKinnon was in charge of it. In 1968 The Hon. A. F. Griffith introduced the Bill; and on this occasion The Hon. L. A. Logan has introduced it.

This reminds me of the story of a person who owned a racehorse which he thought was particularly good. He engaged a champion jockey to ride it, but it finished nowhere. The owner then changed the jockey, but again the horse finished nowhere. He once more changed the jockey, but the horse failed again. It seems that in this case the owner would not accept the fact that the horse was not good enough. I suggest the same thing can be said about the Bill before us. Legislation has been introduced on three occasions, but it has got nowhere. It looks as though we will not get anywhere with it for a long time.

The reason I am disappointed with the Minister's introductory speech on this occasion is that the main crux of the Bill, which is contained in clause 3, seeks to repeal section 10 and to re-enact it. The main clause in the 1968 Bill also sought to repeal section 10 and to re-enact it. It seems that the Government was not happy with section 10 of the Act which was passed in 1966, so in 1968 it decided to repeal and re-enact it. On the present occasion Parliament is being asked again to repeal section 10 and to re-enact it.

In 1966 I stated that insurance coverage was the problem, and that it was very difficult to get any insurance company interested in this type of insurance. The aerial spraying operators had to find coverage of $30,000, and the best they could obtain was covered by a letter which I read on that occasion. It would be appropriate for me to read it again to illustrate the difficulties that are associated with insurance coverage.

In 1966 various aerial spraying operators made approaches to insurance companies, in particular to Stenhouse (W.A.) Limited which operated in other fields of insurance. At the time this company was also interested in this field. The letter from the company, dated the 26th July, 1966, which I read out on that occasion, was as follows:—

> We confirm our verbal advice that the best Quotation we could get for this Liability was $250 per Aircraft for a limit of Liability of $30,000 any

one occurrence with an aggregate liability of $50,000 for the period of the Policy.

This was for a period of 12 months. The quotation covered spray drift liability only; and it was liability for damage caused after spraying operations. The drift from such spraying operations could damage a property perhaps miles away. The letter continued—

We have noted that at this stage you are not interested in effecting this insurance.

In view of the possibility that the proposed Aerial Spraying Control Act may come into force we asked our London Office to prospect the market to see if there was any possibility of obtaining the cover which would be required under the Act. We are advised that no Underwriter will quote for the cover required and only drift liability cover is obtainable in any substantial amount.

That letter was mentioned in the debate on the 1966 Bill which subsequently became an Act. However, it has not yet been proclaimed. The only provision of any controversial substance in the Bill of 1966 was the one to control drift. In the 1968 measure the position was the same. On the present ocassion there is a change, and the $30,000 cover must include the property on which the spraying is taking place. Both in 1966 and in 1968 we were at some variance over this aspect. What members have to realise is that when a plane is engaged in aerial spraying, damage can be done to a property which is 40 miles away. This is an amazing statement to make, but it is factual. Recently such a case occurred; some aerial spraying was undertaken at Dongara in order to rid a property of weeds, but a crop of peas—about two or three acres—in Geraldton was affected. The cause of the damage was traced to this aerial spraying.

The Hon. J. Heitman: What guarantee have you that it was traced to that particular aerial spraying operation? The damage could have been caused from a spray used much closer to the Geraldton area.

The Hon. J. DOLAN: I am pleased that Mr. Heitman has mentioned this aspect. I remember that when we crossed swords previously he was not inclined to attribute the damage to this type of spraying, but to spraying undertaken by a local farmer. There is that possibility, and I concede it. However, the investigations indicated, to use legal phraseology, that the evidence was circumstantial that the damage was caused by the aerial spraying.

In the Bill before us there is only one clause with which we are concerned; and that is the provision to repeal section 10 and to re-enact it. I say this without making any criticism: there are many inconsistencies in the Minister's speech. This has been brought about because he has been landed with something that is too difficult. This is a subject in which we are all vitally interested, and it is legislation which we would all like to see get off the ground, if at all possible.

In introducing the second reading the Minister referred to the main provisions in the legislation under four headings. The only one which has been dealt with is the one which provides that the owners of aircraft who undertake spraying lodge a security for the purpose of protecting persons who may suffer loss as a consequence of spraying operations. That refers to the $30,000 insurance coverage.

In the initial legislation introduced in 1966 the Minister said in the second reading debate that wherever possible it was agreed there should be uniformity between the States. When we refer to uniformity between the States surely we are talking about uniformity as it affects all States.

The only States which have ever attempted to introduce legislation concerned with aerial spraying have been Victoria, Queensland, and Western Australia. South Australia will not have a bar of it; New South Wales is not interested, nor is Tasmania, and nor is the Commonwealth. Those Governments are waiting to see what happens with this sort of legislation. I examined the Queensland legislation and it is most involved and detailed. The difference between that legislation and our own is like the difference between chalk and cheese, except with respect to one section which is similar to the section we are attempting to repeal and re-enact. I refer to section 10 of the principal Act.

In Victoria there have been consultations with the Australian Agricultural Council, a body which seems to keep things so secret that one cannot find out anything unless legislation is introduced. This is the only time I have found out anything about that council. It generally claims that what it is discussing is secret until the time is ripe for it to be disclosed. When the time is ripe, legislation is introduced.

Victoria and Queensland are doing their best to get something done. After the last occasion when this legislation was discussed, when it looked as though we would get somewhere, it was suggested that there was a possibility of an eventual agreement regarding insurance cover which would be satisfactory to the operators and to the people who employ the spray operators. The insurance companies and everybody else were going to be happy about the situation. However, as soon as the representatives left the conference the Victorian Crown Solicitor immediately found something wrong with the legislation and he said that the coverage would not satisfy

that State. Even though that occurred in 1968, the Minister, when he introduced the Bill, had the following to say:—

> However, subsequent to this, the Victorian Crown Solicitor expressed the view that the policy offered by the Australian aviation underwriting pool did not meet fully the requirements of the Act.

The Minister said that even though the policy did not meet the requirements, it was agreed at a further meeting that no alternative to the policy offered was available, nor could the underwriters be directed to alter the form of the policy offered.

So it was decided that we would go ahead with the legislation in any case, and we now have it before us. When the legislation is agreed to in this State, Victoria will try to fall into line and will approach the underwriters again to see whether they will play ball. We will then be back to where we were in 1966.

I am not concerned with the other provisions relating to expert pilots and the fact that they have to know the manual which contains the list of chemicals used. I am not concerned with the form of reports: they do not require agreement. The main problem is that of insurance. I would have liked to hear the Minister say—and I still expect to hear him say it—that progress had been made regarding the approach to the underwriters by the Victorian Department of Agriculture.

I want the Minister to tell us what progress has been made. It is not a matter of saying that progress has been made on the Bills introduced in 1966 and 1968. We still have the legislation in 1970 and it has not been proclaimed. We have agreed on all other points, but we agreed to those points in 1966. Some of the matters I raised on that occasion were the subject of amendment in 1968, but still we have not got the Act operating.

The Hon. G. W. Berry: It should be a beauty when we get it passed.

The Hon. J. DOLAN: Well, will it be a beauty? We thought it was good legislation in 1966.

The Hon. F. J. S. Wise: Is the honourable member satisfied with clause 2 of this Bill?

The Hon. J. DOLAN: Well, I had some doubts but I had the matter investigated and it was felt that clause 2 was covered by the Interpretation Act.

The Hon. F. J. S. Wise: Reference to the principal Act is sufficient?

The Hon. J. DOLAN: That is right. It was agreed that clause 2 was satisfactory so I would not raise that particular point. I was making the point that the Minister said that progress had been made. I think it is only fair and reasonable that after four years we should know what the progress has been because the Act is not operating. We should know what sort of insurance policy has been agreed upon. It is all very well to introduce matters such as policies being underwritten by a pool of companies. How does that proposition compare with other similar legislation? The insurance companies in England would not touch this type of insurance because they were worried about too many aspects of it. It is all very well for a plane to carry out spraying operations on a certain property but damage could be caused to a property 10 miles away.

That damage could have been caused by a dozen other different sources. Insurance bodies in England are fairly hard business people and they will not run the risks associated with policies of this nature.

I recall that in 1966 I raised the point that the aerial spray operators had been operating for a period and the total of the claims made amounted to $2,500. The amount might have been $2,000 or $3,000, but it was about $2,500. At that time the operators were spraying 1,000,000 acres of land a year. Mr. Heitman, when speaking, was good enough to refer to the fact that the aerial spraying operators had such a tight contract that it did not matter what damage they did; they were covered. I feel that there are always two parties to a contract; in this case one party is the aerial spraying operator and the other is the farmer. Even though the contractors are permitted to dictate the terms of the contract so that even though they cause damage they are not liable for compensation I am inclined to think that Mr. Heitman is hard-headed enough to get something from the wreck.

Between 1966 and 1968 there was no provision in the Act for compensation, except in the case of spray drift. This Bill contains a provision stating that no aerial spraying shall be carried out unless the owner of the organisation carrying out the spraying has lodged a security with the director, or satisfied the director that a security has been lodged in another State.

I do not know what sort of difficulties will be associated with the lodging of a security in States like New South Wales and Tasmania, or in a State where an Act such as this does not operate. Despite my research, and the research of the officers in this Parliament, I have not been able to find out whether the legislation of Queensland and Victoria has been proclaimed. We are talking about uniformity but the other States do not have any effective legislation.

The Bill states that one cannot carry out aerial spraying unless the owner of the aircraft has lodged a security with the director, or satisfied the director that he has a coverage in one of the other States, or in the territory of the Commonwealth, with a person acceptable to the director.

The security is for an amount of not less than $30,000 against liability in respect of loss of or damage to property caused during the course of aerial spraying, or by spray drift. This is the first time that the provision has appeared in the legislation and I feel that it has raised another difficulty associated with insurance.

I want the Minister to tell us what insurance companies are involved in the pool, and what agreement has been reached to satisfy the people who operate the planes. I would like the Minister to tell us whether all those concerned will be satisfied.

There is another point I would make before I conclude. I do not wish to be long-winded because when the legislation was introduced in 1966 I went to great lengths to do my bit towards getting it off the ground. I even suggested that the Government withdraw the Bill, and bring in another measure which would be more acceptable. The matter I wish to refer to is that spraying might be carried out alongside a State reserve where the flora and the fauna are, perhaps, protected. Some of the modern chemicals used in spraying could be dangerous to the plant life on the reserve. Although the sprays are used to destroy weeds, and are not supposed to affect native plants, I have the feeling that they could be dangerous to the flora and fauna on adjoining State reserves.

There is nothing in this Bill, or in the Act, to protect Government land from spray drift. I feel it is highly desirable that we should not only preserve the rights of neighbouring farmers, but we should also give protection to the flora and fauna on State reserves.

I am not happy with the present legislation and I feel the business of insurance still has to be cleared up satisfactorily. As I have said, I would like the Minister to tell us what progress has been made. I emphasise that point because for two years we have had the legislation and it is still exactly the same. The verbiage is almost the same and the only difference, so far as I can see, is that on this occasion there will be coverage, under proposed new section 10 of the Act, for the person who is having the spraying done. Not only does the insurance policy cover spray drift, but also the actual operations on the farm.

The other matters which the Minister referred to are, I think, implied in the legislation and no good purpose would be served if I went through them again. I rely on the Minister to put my mind at rest, to a certain extent, by giving the House some assurance that if we agree to this legislation we can expect that it will only be a matter of 12 months or so before it will be proclaimed and got off the ground.

I knew a week ago that this legislation had not been proclaimed. When the Bill was introduced I was asked to take the adjournment and the first thing I did was to look at the Act itself. Section 19 of the parent Act provides for regulations, prescribes forms, and goes through the gamut of operations. I sought the regulations to see how they fitted into the Act and when I asked one of the officers to get me a copy of the regulations he said he would have it on my table in 10 minutes. However, at the end of 10 minutes I was informed that there were no regulations. I asked the officer if he was sure and he assured me that there were no regulations. I then said that it looked as though the legislation had not been proclaimed and the officer said he would find out. He soon informed me that the Act had not been proclaimed.

I wonder how serious we are about this matter. The Minister in another place introduced legislation in 1966 and in 1968.

The Hon. F. J. S. Wise: The Minister there did not even know that the Act had not been proclaimed.

The Hon. J. DOLAN: He was the Minister responsible for bringing the legislation to Parliament on this occasion, although he did not introduce it in another place. He was in Sydney at the time and the Minister for Lands introduced it. When the responsible Minister was asked about the matter he said that of course the legislation had been proclaimed. After four years the Minister in charge of it did not even know that the legislation had not been proclaimed. I think it is disgraceful that a Minister who introduces legislation to Parliament does not know what has happened to it.

I exempt the Minister in this Chamber because he did not start off with the legislation in 1966. On that occasion it was a different Minister. There was a different Minister again in 1968, and now we have Mr. Logan introducing the legislation into this House in 1970. I do not know whether it is a question of passing the buck, but I would say the Government is paying a great compliment to Mr. Logan. It must have said, "We could not get anything done in 1966 or 1968. We have now gone another two years and we will hand it over to Mr. Logan to see how he goes."

The Hon. L. A. Logan: We will fix it up this time.

The Hon. J. DOLAN: It is nice to know that after four years the Minister has something in his sights and we will get somewhere.

In the hope that the Minister will give an assurance to the House about coverage and about the insurance companies—we are concerned about some of the terms—I will be perfectly happy and I am prepared to support the Bill. If the Minister cannot come up with some information which is of real value to us—information which will enable us to know where we are going—I will have no alternative but to oppose the measure.

THE HON. I. G. MEDCALF (Metropolitan) [8.47 p.m.]: I was interested to hear the remarks of Mr. Dolan who knows a great deal more about the history of this legislation than I do. I was interested also to read again the remarks made by the Minister in his second reading speech. I noticed that in his second reading speech—and this matter was referred to by Mr. Dolan—the Minister mentioned why the Act was introduced originally in 1966. He said that the reasons were: to ensure that pilots should have some training and some education in the dangers associated with chemical sprays; to reduce the risks of aerial spraying by the declaration of hazardous areas; and to require that aerial operators should keep detailed records of their operations. He also gave one other reason which was that the owners of aircraft should lodge a security in case their activities involved damage to other people.

I think Mr. Dolan has quite adequately pointed out—and therefore it is unnecessary for me to repeat the point—that the purport of this Bill is to deal only with the fourth of those reasons. It deals simply with the question of security; or, at any rate, that is the main point of the Bill now before us.

It made me wonder why in the beginning we had tied ourselves to a principle of uniformity. I could quite understand that in one or two of the Eastern States, because of adjoining boundaries, those States might have come to the conclusion that it was necessary for them to have legislation which they could jointly introduce because spray can drift across one State boundary into another State. That is a good reason why there should be uniformity in the case of States which might carry on aerial spraying near their boundaries.

It is possible, of course, that we could carry on aerial spraying near our boundary with the Northern Territory. It might well be that there is some interstate significance in that instance and a Commonwealth Act is therefore necessary, and it would be desirable for us to have uniformity with the Commonwealth. I do not know that the same would apply to the South Australian boundary, although I may be wrong. However, obviously the same requirement of uniformity is not as strong in that case.

Perhaps in this Parliament, along with the other States, we have inserted the insurance provision as a necessary prerequisite when we need not have done so. That statement might not meet with the approval of a number of members who may consider it is very necessary that we should have an insurance provision in the legislation. By my statement I do not intend to imply that I oppose the insurance provision; as a matter of fact, I am all in favour of it. However, I can appreciate that perhaps a mistake might have been made in including it in the legislation without having made prior arrangements with the insurance underwriters to make certain that we had insurance cover.

It is not always possible to get the insurance cover one wants; and in the original Bill there was a clause requiring a certain type of cover which had to be approved by the Director of Agriculture when obviously—here I am surmising, but to me it seems to be obvious—the director was unable to find underwriters who were prepared to give the cover required.

I have memories of one occasion when I was trying to get insurance cover for a pearling lugger travelling from Shark Bay to Geraldton. I could not get cover anywhere and as in this particular case I was the trustee of the estate which owned the pearling lugger, it was a matter of great concern to me. I explored the possibility of getting cover through Lloyds' brokers in London, but no cover was available.

There was just nothing that one could do to force insurance brokers to give cover. Obviously it is a matter of commercial practice—it is a matter of a commercial bargain. One cannot force insurance companies, or anybody else for that matter, to supply cover for some particular merchantable item unless they are prepared to do so. There are many other examples which will occur to members but I shall not bore the House by referring to them. Suffice it to say that in certain circumstances it is impossible to get cover.

If anyone has tried to insure against liability when cutting down a tree which hangs over somebody's roof he will realise the difficulties of getting cover; and when we are dealing with aircraft which clearly are liable to cause danger over a wide area it is quite apparent that we might have difficulty in this connection.

However, there are many good features in this Act, quite apart from the insurance provision, and in a way it is rather a pity that the question of insurance has been so firmly tied into the Act. I think it would have been preferable had the Act in its original form provided for the other good features and left the insurance section to be proclaimed at a later date. In that way the rest of the legislation requiring certificates of competency to be obtained and enabling the director to proclaim hazardous areas, could have been put into operation. Also, the provision requiring owners to keep records of their aerial spraying operations could have been proclaimed.

After all, it is rather serious for a farmer, or anybody else for that matter—but I take the farmer as an obvious

case—who suffers loss because of drifting spray. The spray might have drifted over a considerable distance and caused damage to a farmer's pasture or crop. It is an extremely serious matter and how is the farmer to know who caused it? He might have been away at the time and when he returns to his property he finds portion of his crop devastated as a result of some aerial spraying by some careless person, or because the spraying was carried out under hazardous conditions.

In those circumstances quite clearly he wants recourse against someone. There is a certain amount of protection for the farmer if there is a provision requiring certificates of competency to be issued by the director—that is in the first part of the Act—and if we provide for the prescribing of hazardous areas where no spraying can take place under certain conditions—that is in the next part of the Act—and there is a requirement that an aircraft operator shall keep proper records of his operations. Under those circumstances the aircraft can be identified and one can find out from the records what the operators were doing and where they were operating from. Those records would be available through the director.

Under those circumstances we make the position fairer for the person who happens to have his crop or pasture damaged as a result of the careless activities of aerial spraying operators. However, I think it should be borne in mind that it is quite open to anyone who suffers damage as a result of the actions of an aircraft engaged in spraying operations to take proceedings if he can establish who the aircraft operator is. Such a person can also take proceedings against the person who engaged the aircraft. Exactly the same applies to someone who uses a mister, or boom spray, or some other type of ground spray and, in spraying along a fence-line, sprays the next door crop as well and damages it.

The Hon. J. Dolan: We have no legislation to cover that.

The Hon. I. G. MEDCALF: No; that is so. However, it is quite open to anybody who suffers damage to take action against the owner of the adjoining property, or the contractor, or both.

The Hon. J. Dolan: I do not want any free legal advice, but the council in our area sprays every year, and in the course of doing so sprays our flowers.

The Hon. I. G. MEDCALF: Hence, without any insurance provision in the legislation, there is already legal remedy against people who cause damage such as I have referred to if one can identify the aircraft, or the people who engaged the aircraft. As Mr. Dolan has pointed out, spray may drift for 40 miles and it can be extremely difficult to identify those who caused it. Therefore, I believe the rest of the Act is extremely important and I am sorry, as I am sure the Minister is sorry, that the legislation has not been proclaimed. I was surprised to learn of this recently and I feel the difficulty could have been overcome quite simply by having the insurance provision in a separate part of the Act. Under those circumstances, the portions of the Act which created the liabilities on the aerial operators, to which I have referred, could have been proclaimed; and the insurance provision could have been proclaimed when satisfactory arrangements had been made.

I was also surprised to see that the only amendments made to this Act have been those dealing with insurance, and it seems to me to be perfectly obvious that it was impossible, or almost impossible to get the insurance cover required. We cannot legislate for cover because one can get cover only from people who are prepared to give it; and this, of course, was the mistake that was made. That is unfortunate. I sincerely hope that arrangements have now been made with underwriters to obtain this cover.

If arrangements are made this year, will the cover be available next year? It depends upon the number of claims and a number of other factors. Hence, I would hope that something will be done about that particular section of the Act. Nevertheless, I support the Bill. I am not arguing against the measure because I am in favour of the principle of it and I sincerely hope that insurance cover has been obtained. I reiterate, however, it is still possible for people who are aggrieved or suffer damage as a result of the careless and negligent activities of operators to pursue their normal remedies by taking action if they can identify the aircraft and the owners. There are provisions in this Act to enable them to do that.

In closing I reiterate that I support the Bill and I hope insurance cover will be forthcoming.

THE HON. J. HEITMAN (Upper West) [9.00 p.m.]: Like other speakers, I grudgingly support the Bill. I do not think it goes as far as we would like it to go. I can see why insurance cover has not been obtainable in the past, especially when wind drift is taken into consideration. Mr. Dolan mentioned a drift of 40 miles, but I very much doubt whether spray would do much damage to a crop 40 miles away. I have seen many paddocks of lupins destroyed within half a mile of where the operator was spraying.

The Hon. J. Dolan: I take it you have had that experience yourself.

The Hon. J. HEITMAN: Here again, I can understand the pilot of the aircraft might do these things, because he has a contract to do a certain job and if the prevailing winds are not suitable he has

to hang around for about a week. So he gets anxious to finish the job in order to move on to his next contract. It does not seem to occur to the pilots that a job 10 or 15 miles away might require the same type of wind that is causing him delay. I often wonder about this because I think they could carry on operations somewhere else and then come back to the job they could not finish on account of the prevailing wind.

The Hon. E. C. House: That is impossible because they have to fly so low. They could not fly anyway.

The Hon. J. HEITMAN: I know the pilots fly under power lines, etc. However, I am not a pilot and Mr. House would know more about it than I do. I do not think the pilots organise their work far enough ahead to place them in the position of knowing whether or not an adjacent paddock has a leguminous crop. It is only a matter of flying over the adjacent paddocks, and the pilot would be able to tell whether they contained lupins or other leguminous crops; and he could vary the spray so that the drift would not cause damage.

Insurance cover is hard to obtain because a careless pilot could cause an insurance company to have to pay out thousands of dollars in compensation for damage. I am glad Mr. Dolan mentioned the fact that when the Act was last amended I spoke about the contracts which spraying companies demanded farmers should sign before the companies commenced work on a contract. I brought some contracts to the House on that occasion and found that they were not worth the paper they were written on. Whilst members might criticise farmers for signing those contracts, it must be realised that the operators do not remain long in a district and if a farmer wants his property sprayed he makes arrangements by word of mouth rather than wait for a contract to be drawn up.

Of course, if the contract is signed before the spraying is done, it is not worth anything to the farmer. He does not get any help. If he does not pay until the job is completed in the right manner, he is on the safe side. I think many farmers do that today; they pay after they see that the spraying is effective.

The Hon. J. Dolan: You never let the same bee sting you twice.

The Hon. J. HEITMAN: Quite so. As I mentioned on the last occasion, if a farmer contracts with a private owner-pilot rather than a company the job is done satisfactorily because the pilot wants to come back next year. However, even those pilots become anxious to finish a job when maybe the wind is blowing from the wrong direction and consequently acres of lupins or leguminous pasture are destroyed through neglect or anxiety to finish a job.

I do not think this Bill goes far enough, nor did I think the last Bill went far enough, although I supported it. On this occasion all the measure does is amend section 10 of the Act and, once again, the main object is in regard to insurance. I hope the operators can obtain sufficient insurance cover. I think the premiums will be very high because a careless operator could cost an insurance company a great deal of money. A pilot who is keen on his job will take care and spray only when the wind is in the right direction. He will take all precautions against destroying someones else's pasture. However, damage does occur from year to year.

In the Geraldton region spraying is not permitted within 12 miles of the tomato growing area, and this will give members some idea that the spray is fairly safe at a range of 12 miles. I would say if the wind is used correctly the spray is safe at a range of one mile.

The Hon. J Dolan: I think the case I quoted was an exceptional one; I will grant you that.

The Hon. J. HEITMAN: When the honourable member mentioned Dongara and 40 miles, I thought damage might have been done to the crayfish at the Abrolhos! Since the Act was passed in 1966 it has had great effect in country areas because whereas the pilots used to fly over country towns they now fly around them to ensure that they do not destroy the gardens.

The Hon. J. Dolan: Do they think the Act might be proclaimed?

The Hon. J. HEITMAN: I think they have become frightened that the Act might be proclaimed, and they are a little more careful. With a little care aerial spraying or mist spraying of crops to destroy weeds can be achieved without causing damage to one's next-door neighbour's property.

I support the Bill and I only hope that operators manage to obtain enough insurance to cover the situation. I do feel that much more would be done to make spraying safer for everybody concerned if a little more time were taken in framing the legislation, and then proclaiming it.

Debate adjourned, on motion by The Hon. C. R. Abbey.

LOTTERIES (CONTROL) ACT AMENDMENT BILL

Second Reading

Debate resumed from the 9th September.

THE HON. W. F. WILLESEE (North-East Metropolitan—Leader of the Opposition) [9.07 p.m.]: I find this measure

quite interesting. The Bill itself contains two simple clauses; but what is the reason for the legislation? So far as clause 2 in particular is concerned, the reason is that the Lotteries Commission started to invest its funds in short-term investments contrary to the provisions of the Lotteries (Control) Act. The Auditor-General reported adversely upon this and although the Crown Law Department supported the view of the Auditor-General the Lotteries Commission continued to use this form of short-term investment. Hence the Bill.

In my opinion the commission should have complied with the Act from the time the Auditor-General made his observation, because the amount of money involved was quite large and grew to larger proportions. The commission began in September, 1969, with a short-term investment of $100,000, and the following table sets out the subsequent investments by the commission:—

	$
September, 1969	100,000
October, 1969	210,000
November, 1969	305,000
December, 1969	385,000
January, 1970	535,000
February, 1970	595,000
March, 1970	695,000
April, 1970	695,000
May, 1970	815,000

So in May of this year the commission had $815,000 invested and it was not within its powers to do that. The attention of the commission and of the Government had been drawn to the fact that this form of investment was contrary to the Act. The $815,000 was invested in two companies—$380,000 in the Capel Court company, which is a subsidiary of the J. B. Were establishment, and $435,000 in Martin Discounts, a firm of world-wide repute.

It is true that these short-term investments were much better for the commission than the limited investment opportunities prescribed in the Act. However, it is not within the scope of the commission to go beyond the orbit of the legislation which controls it. I believe the short-term investments should have ceased when the Auditor-General drew the attention of the commission to the fact that it was acting outside the Act. This legislation should have come forward then, and from that point onwards the commission could have operated as it had been in the past. I have indicated that the companies in which the money was invested have an impeccable record.

If we look at the Bill we find it contains two simple clauses. Clause 2 amends section 9 (2) of the principal Act by substituting for the words, "Commonwealth Inscribed Stock or in any security if the repayment of the money thereby secured is guaranteed by the Crown in right of the State" the words, "any investments authorised by law as those in which trust funds may be invested." From that, in my opinion, very vague statement one can only assume that we turn to the Trustees Act as being the authority in regard to "investment." Section 16 of that Act deals with investments—I could read it out, but every member can read as well as I can; some much better—and in general they are restricted. In my view the Trustees Act does not include the type of investment made by the commission in the companies I mentioned. That Act includes vague references such as "in any security or in any manner authorised by, or under, any Act." I do not think that is intended in the Bill. So if the assumption be that the Trustees Act is to be applied to the terms of this Bill then I say the Bill does not cover the situation it sets out to cover; because it intends to continue the principle of short-term investment with accredited companies which lend money on a basis of from 5.2 per cent. to 7 per cent. interest. This is a large growing investment capital quite outside the known investment capital that has developed over the years.

I refer members to page 114 of *Rydge's* magazine for August, 1970. I do not intend to read out all the details but merely to draw a comparison between the forms of investment. *Rydge's* states that the turnover on the stock exchanges of Australia is $25,000,000 per day while the turnover in this new field of investment to which I have referred is $100,000,000 a day; and it is still growing.

The Hon. L. A. Logan: That is short term.

The Hon. W. F. WILLESEE: Yes. It nominates the particular people who deal in what it terms the official short-term money market and the other types of markets. Not one of these is nominated in the Trustees Act.

Having established quite clearly that the Lotteries Commission was wrong in what it did in the first place, and that it was wrong to have continued as it did, we must content ourselves by drawing attention to the fact that we are aware of the position.

The Government now produces an amendment which it believes will meet the situation and allow the Lotteries Commission to invest in short-term loans. But the specific type of loan in which the commission wishes to invest and the type of person with whom it wishes to invest are not specified either in the Trustees Act or in the Bill before us. I think the measure will be completely abortive unless we spell out what is intended to be done.

Debate adjourned, on motion by The Hon. N. E. Baxter.

House adjourned at 9.18 p.m.