makes it almost impossible for them to receive regular medical attention. Conseqently they suffer much hardship. Many of them are so isolated that they do not see other people except on those occasions when they walk into the township. If a colony were established doctors could make regular visits and, indeed, have expressed a willingness to do so.

General hygiene would receive full attention, which it is not getting today and sanitary arrangements, now conspicuous by their absence, could be provided. The contentment of these old people in their declining years would fully compensate for any outlay that would be involved.

Hon. J. B. Sleeman: They are the people that blazed the track.

Mr. KELLY: Yes, and in the blazing of the track, the womenfolk, of whom there are quite a few in the Coolgardie area, played an important part. If cottages could be provided for them, say, some for married couples and others suitable for bachelors, the buildings need not be large or elaborate. If they were just homely and comfortable, that would be sufficient, for contentment would then be the lot of many of these old people.

Such a scheme should be well within the financial ambit of the State Government. The outlay would not be considerable. The inauguration of such a scheme would have the effect of relieving the pressure on the accommodation of some of the institutions in the metropolitan area which, we have been informed, are grossly overcrowded. When we intercede for these elderly people, we find ourselves confronted by great difficulties because of the accommodation in existing institutions being overtaxed.

The Minister for Housing: And by their staying where they are, they help to keep the life of the town going.

Mr. KELLY: Definitely so and by living amongst their friends, they enjoy full contentment. If it is beyond the financial power of the Government to take action along the lines I have suggested, perhaps something could be done by the McNess Housing Trust. I appeal to the Government to give consideration to my suggestions because by so doing it would be accomplishing a really humane work.

The Premier: We shall look into the matter. I promise you that.

Progress reported.

BILLS (2)—FIRST READING.

1, Western Australian Trotting Association Act Amendment. (Mr. Cornell in charge).

2, Foundation Day Observance (1949 Royal Visit).

Received from the Council.

BILL—ROAD DISTRICTS ACT AMENDMENT.

Returned from the Council without amendment.

House adjourned at 10.1 p.m.

Legislative Council.

Tuesday, 9th November, 1948.

CONTENTS.

	Page
Questions: Railway bus services, as to Kojonup route returns, etc.	2174
Railways, as to A.S.G. engines modified, etc.	2174
Workers' Compensation Act, as to court claims	2174
Bills: Guardianship of Infants Act Amendment, 1r.	2174
McNess Housing Trust Act Amendment (No. 2), 2r., Com., report	2174
Friendly Societies Act Amendment, returned	2178
Motor Vehicle (Third Party Insurance) Act Amendment, 2r.	2178
Stipendiary Magistrates Act Amendment, 2r.	2180
Poultry Industry (Trust Fund), 2r., Com., report	2181
Matrimonial Causes and Personal Status Code, 2r.	2183
Justices Act Amendment, 2r., Com., report	2190
Workers' Compensation Act Amendment, Com.	2191

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

QUESTIONS.

RAILWAY BUS SERVICES.

As to Kojonup Route Returns, etc.

Hon. A. L. LOTON (for Hon. H. L. Roche) asked the Chief Secretary:

(1) What have been the gross return and the net profit for the Kojonup road passenger service for each year since its inception, inclusive of Boddington, Williams and Cranbrook?

(2) For the year ended the 30th June, 1948—

(a) What was the cost of maintenance on this service?

(b) What was the cost of repairs as distinct from ordinary maintenance?

(3) How many passengers were carried for the year ended the 30th June, 1948.

The CHIEF SECRETARY replied:

(1)—

	Gross return.	Net return excluding overhead and indirect charges.	Net return including overhead and indirect charges.
	£	£	£
1941-1942	3,001	1,883	
1942-1943	6,587	3,881	
1943-1944	7,013	4,023	
1944-1945	7,181	3,614	
1945-1946	8,094	4,333	
1946-1947	8,357	3,686	
1947-1948	10,537	955	395 deficiency

Administration and indirect charges for this route were not separated in the department's accounts for the years 1941 to 1947.

(2) (a) £3,234.

(b) Separate figures are not extracted for the cost of repairs as distinct from ordinary maintenance.

(3) 12,215.

RAILWAYS.

As to A.S.G. Engines Modified, etc.

Hon. H. A. C. DAFFEN asked the Chief Secretary:

(1) How many A.S.G. engines have been modified by the W.A.G.R.?

(2) How many of these engines are in service?

(3) How many are laid up for repairs?

The CHIEF SECRETARY replied:

(1) 25.

(2) 13 at the 6th November, 1948.

(3) 12, including four for reduction of side-play.

WORKERS' COMPENSATION ACT.

As to Court Claims.

Hon. A. L. LOTON asked the Chief Secretary:

(1) How many contested cases under the Workers' Compensation Act have been dealt with by the courts during the years 1943, 1944, 1945, 1946 and 1947?

(2) How many of these were applications for approval of the court to consent lump sum settlements?

The CHIEF SECRETARY replied:

(1) and (2) I have been informed by the Attorney General that workers' compensation cases are heard in a great many courts within the State, and that a separate record of these cases is not available.

BILL—GUARDIANSHIP OF INFANTS ACT AMENDMENT.

Introduced by Hon. G. Fraser and read a first time.

BILL—McNESS HOUSING TRUST ACT AMENDMENT (No. 2).

Second Reading.

Debate resumed from the 4th November.

HON. C. F. BAXTER (East) [4.38]: The parent Act was passed during the depression years of 1930-33. By the generosity of the late Sir Charles McNess, funds were provided to erect homes for indigent people. I am afraid that the people now occupying these homes cannot, except in a few cases, be classed as indigent. The object of the Bill is to endeavour to keep the fund intact. I notice that provision is made for a variation of rents from 5s. to 12s. 6d. per week. However, even if rentals of 12s. 6d. per week were charged, the resultant income would certainly not be sufficient to keep the fund functioning very long.

In my opinion it has got out of hand in this respect that a great many people who secured these homes in the first place at the

nominal rent of 5s. have bettered their position so that today they can afford a reasonable rent. When I say that, I do not mean the usual amount paid for rental homes today, but something much less—about half. I think the amount of 12s. 6d. is far too low. If no more than that can be charged, then the fund—it was intended that it should be continued for practically all time—will gradually disappear. The present trustees, Hon. H. Millington and Mr. Harler, of the Wyndham Meatworks, will retire by efflux-ion of time, and I sympathise with the incoming trustees because they will be called upon to deal with a fund that is fast disappearing.

In this House we should raise the maximum to something like 15s. which would effect necessary repairs and help to carry the fund on for many years. We must always remember, when dealing with a Bill of this nature, that we are providing something for indigent people. I think the Chief Secretary, who introduced the Bill, said that one family, now taking advantage of the 5s. rental, is in receipt of an income of £20 a week. Such a state of affairs was never intended. Sir Charles McNess made a charitable donation, and fortunately other funds have been provided to help in the extension of buildings, or the trust would have ceased to operate long ago.

We do not want a charitable arrangement like this to cease when we know that in future there will be plenty of indigent people for whom some provision will have to be made; and what better provision can we make than by supplying homes? That is the most important thing, especially with old people. We should bear that in mind when the Bill is in the Committee stage. I think the lowest maximum under which we can expect the trust to carry out the good work it has done in the past, is 15s., and perhaps more. I have much pleasure in supporting the second reading of the Bill, but I hope the proper view will be taken when we deal with it in Committee.

HON. G. FRASER (West) [4.43]: This is one of those Bills that put members in a quandary as to whether they should support or oppose them. I find myself in that category. I am afraid the passing of the Bill will act to the detriment of those in whose interests the original measure was introduced. On the other hand, I am prepared, like Mr. Baxter, to go beyond the maximum in dealing with those cases that have outgrown what was intended when the Act was first introduced. I like other members who were here at that time, am prepared to take my share of the responsibility for allowing the Bill to go through without certain safeguards. We did not foresee then that people deserving of assistance at that time would later take undue advantage of the scheme. Consequently, no safeguards were placed in the original measure. We find now that since the Act has been in operation that abuses have occurred.

Take the case of a widow with several children who made application for a home, was approved under the original Act and for whom a home was built. Then down the years the children have become income-earners so that the money coming into the home is more than that of the average working man. Yet, those people are receiving the benefits of the Act. We have to pay attention to those circumstances. I do not want an alteration raising the amount from 5s. to 12s. 6d., because many who now rent these houses are not in a position to pay that much. On the other hand, I think 12s. 6d. is a very light rental for a person in receipt of a decent income. I cannot see in the Bill any mention of those persons who, in the early stages, agreed to purchase the homes under contracts of sale.

Hon. Sir Charles Latham: They are still doing that, at 5s. a week.

Hon. G. FRASER: Most of the people that I have had any association with in recent years, or immediately preceding the war, were occupying the houses on a rental basis and not under contracts of sale. What is going to happen to those who have contracts of sale? Will the Bill automatically apply to them, and will they be called upon to make the increased payments that the trustees will be empowered to demand?

Hon. C. F. Baxter: They could not alter a contract.

Hon. G. FRASER: I want that point cleared up. We can do many things by Act of Parliament, and the Bill is silent on that phase. There is this position, too, that we find many of the families occupying these homes could well afford to pay the ordinary rental. Some people have suggested that those persons should be

evicted. I am not in favour of that, because of the difficulty in finding other homes. It has also been suggested that those persons should be transferred to the Commonwealth-State rental scheme.

Again, I am not in favour of that, because whilst that would make houses available for those eligible to come under the McNess scheme, we would be depriving people, who have been waiting a long time for a Commonwealth-State home, from being granted one. As a result of all these considerations, I admit quite candidly I am in a fog as to what my attitude should be. For many years now, particularly in my area we have been battling for McNess homes, but very few, if any, have been built since the war, which means that all the indigent persons in my district are without any assistance under the Act. I can foresee that by transferring people from the McNess homes to Commonwealth-State rental houses, some dwellings would be made available to the indigent people, but that, in my opinion, would be too drastic.

Hon. C. F. Baxter: The trustees would refrain from doing that.

Hon. G. FRASER: They would like to do it, and would do it if times were normal. I feel that the McNess Housing Trust is in the frame of mind that, in order to make homes available for the indigent, it would even go that far. There is now very little money in the fund—I think only about £14,000 or £15,000. I understand that sum is required by the trust to carry out delayed renovations and work of that description. So we find today that no McNess home building is being carried on at all and that is one of the reasons that may finally decide me to vote in favour of the measure. There are many applicants for these homes notwithstanding the high cost of building and I believe some McNess homes would be available if the funds were available to meet the requests.

I cannot understand why the Government, instead of putting men off the day labour system, did not transfer them over to do some of the delayed building on McNess homes. I will admit that the trust has not very much money, but those men who were put off could have been better utilised under this particular scheme than being allowed to free-lance. It has been suggested that because of the small amount of money that is in the fund, the trust could not carry out any home building. I cannot see any reason why the Government could not have made money available because if ever there was a time when indigent people should be given benefits such as outlined in the original Act, it is now, with the high cost of rents and of other commodities.

However, I suppose I shall vote for the second reading of the Bill, but I would like something more definite than the mere mention in this particular Bill about the margin of 5s. to 12s. 6d. I would like some information from the Minister when he is replying as to just how that alteration will be arrived at, and whether all the people occupying McNess homes will be charged a higher rent or whether discrimination will be shown according to the income of the people concerned? I think the provision in the original Act was that McNess homes should be available for old-age and invalid people as well as widows—

The Chief Secretary: The Bill states that the rental may be varied from time to time by increase or reduction by the trust having regard to the financial position and other circumstances of tenants.

Hon. G. FRASER: That might get over the objection I have. However, I feel fairly safe in leaving the matter in the hands of the members of the trust because I am sure that they would not overcharge any person—

The Chief Secretary: I do not think so.

Hon. G. FRASER: —if he is not in a position to pay. I would also like to see power given to the trust to enable it to recover moneys that may be owing by people who were formerly not in a position to pay but are now well able to meet their debts. I realise that unless further funds are available to the trust, there does not seem to be any likelihood that its benefits will continue because it appears unlikely that there will be a further grant from the Government. Unless more money is secured from some of the present tenants, we cannot hope to see any more McNess homes built. Heaven knows, they are badly required and in view of all the circumstances, I think I will finish up by voting for the second reading of the Bill.

HON. SIR CHARLES LATHAM (East) [4.53]: I do not think there is any need to worry about the Bill. If we look at

what took place in 1937, it will be seen that protection is given as far as the people who can afford to pay are concerned. Provision is there to break any contract entered into. Originally, of course, the money provided for the purpose of the fund was a grant of £5,000 presented to the State Government by Sir Charles McNess for relief of the unemployed. The late Sir Charles made that stipulation and at the time the Commonwealth Government made available to the State a considerable sum of money for unemployment relief, from which £15,000 was taken and added to the £5,000, thus making a total of £20,000 in all. The Government of the day thought the best way to assist the unemployed was to build cheap homes for persons in indigent circumstances and at the same time provide employment.

One of the conditions under which the houses were let was that some of them were to be entirely rent free but a small sum to cover insurance was to be paid by the occupant. The other houses were to be sold to the occupant at the rate of 5s. per week and from that amount all rates and taxes, etc., were to be deducted. In 1937 the Government of the day introduced an amending Bill which provided that a purchaser who resided in a cottage under this agreement could ask to be relieved of it and by that legislation he was entitled to be relieved. The Government was empowered, at its discretion, to make repayments to the person occupying a house of such sums of money as had accumulated after paying all rates and taxes. Section 3 of the amending Act of 1937 stated—

(a) If in the opinion of the Trust the financial circumstances of the purchaser have altered to his advantage so that the purchaser is no longer entitled to the beneficial terms under the contract, then it shall be lawful for the Trust, on giving one calendar month's notice in writing to the purchaser, to require the purchaser to pay the whole of the outstanding balance of the purchase money under the contract, either in one sum or over such period as the Trust may consider just, notwithstanding that the instalments have not yet fallen due.

(b) If the purchaser shall fail or neglect within the time hereinbefore specified to pay the outstanding balance of purchase money, the Trust may by notice in writing to the purchaser determine the contract, and thereupon all beneficial interest of the purchaser therein shall cease and the purchaser shall be entitled to possession of the cottage.

When Sir Charles McNess died, 50 per cent. of the residue of his estate, after provision for other purposes had been complied with, was paid to the McNess Housing Fund. There is roughly about £20,000 now in the fund—the Minister I think gave the figures.

The Chief Secretary: Yes, I did give the figures.

Hon. G. Fraser: After certain commitments had been met, it would be reduced to about £14,000.

Hon. Sir CHARLES LATHAM: I do not know what the commitments would be, but large areas of land were given free to the trust and quite a number of blocks were presented as well, so that the cost of the acquisition of land would not be very high. The idea behind the fund was more or less to provide a home for those people who wanted to live in one of these cottages, but were in such poor circumstances that they could not afford to build for themselves. However, it is not possible to will the homes to anyone else because they are still the property of the trust and the only cottages that would not be the property of the trust would be those purchased by people paying 5s. per week. I think the Government is quite right in saying that these people should now pay a fair rent. After all, a lot of these cottages were roughly built—some of them cost somewhere about £260 each—and they are only partially lined. In view of this fact, I think the people would be paying a reasonable rental if they were charged 12s. 6d. per week.

The Chief Secretary: They pay 5s. a week only.

Hon. Sir CHARLES LATHAM: Yes, but under the Bill they can be charged 12s. 6d., which I consider is quite a reasonable amount. I do not know whether the trust has lined some of these cottages completely—

Hon. G. Fraser: Yes, it has.

Hon. Sir CHARLES LATHAM: That might make them of far greater value but they were built of weatherboards with corrugated asbestos roofs. It was never intended that the fund should last forever, but it did establish a set of circumstances which were very beneficial to the people who could not afford to pay rent at the time and it did provide them with homes.

Quite a number of widows with large families and other people have been accommodated. However, quite a number of the occupants are now in a position to pay more for their homes and from that angle the Government should be commended for bringing forward the Bill, because it will help maintain the fund. Social service benefits are increasing but there may be some people in circumstances which this piece of legislation is designed to overcome.

Question put and passed.

Bill read a second time.

In Committee.

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

BILL—FRIENDLY SOCIETIES ACT AMENDMENT.

Returned from the Assembly without amendment.

BILL—MOTOR VEHICLE (THIRD PARTY INSURANCE) ACT AMENDMENT.

Second Reading.

Debate resumed from the 4th November.

HON. W. J. MANN (South-West) [5.2]: I support the Bill which I regard as desirable as it deals with a change that motor vehicle owners have sought for years past. Personally, I can see nothing in it to which exception can be taken. During the last few days, however, I have received communications from a couple of municipal councils suggesting that provision should be made for their reimbursement on account of the expense involved in the additional work they will be called upon to perform. I have perused the Bill carefully and while I realise some little additional work will be entailed, I fail to see that I could reasonably support the suggestion that provision should be made for expenditure in the direction I have indicated.

Hon. Sir Charles Latham: Anyhow, they have to issue the licenses.

Hon. W. J. MANN: One municipal council has gone so far as to suggest that commission at the rate of 10 per cent. on the premiums collected should be retained by the licensing authority to cover the cost involved in collection, administration and so on. Although that municipality operates in my province, I think that proposal goes far beyond what might be expected. As Sir Charles Latham interjected, the license has to be issued.

Hon. Sir Charles Latham: And the local authority collects the revenue.

Hon. W. J. MANN: Yes. It would all be done in the one operation. I can see nothing to warrant such a charge. I agreed to place the views of the two councils concerned before members and having done so, I shall reiterate that I intend to support the Bill.

HON. G. BENNETTS (South) [5.5]: The Kalgoorlie Municipal Council is much perturbed at the prospect of extra work being imposed upon that body under this measure. For the year ended the 30th June, 1948, the premiums paid by registered owners of motor vehicles in the municipal area totalled £1,729 17s. 8d. During the war, municipal councils were called upon to undertake much extra work which involved an increase in staff and extra expense. In view of what it will be asked to do under the Bill, the Kalgoorlie Municipal Council considers that it should be reimbursed to a certain extent.

On the Goldfields the insurance of motor vehicles involves more expense than it does in any other part of the State. I have a schedule showing the cost relating to privately owned cars of the passenger model type. In the metropolitan area if a person buys a car for cash, his insurance, on the basis of a valuation of £400, means he has to pay a premium of £12 7s. 6d.

Hon. L. Craig: The Bill refers to third party insurance.

Hon. G. BENNETTS: Yes, and I am showing how we on the Goldfields are penalised because of the extra cost involved.

The Chief Secretary: You do not collect that money.

Hon. G. BENNETTS: I know, but I want to indicate how the underwriters get a little extra from the Goldfields people. The proposition we are dealing with involves an additional impost on residents there. In the country areas if people purchase a car on a cash basis, their insurance premiums

represent £10 5s., whereas if they buy on the hire purchase system £12 5s. has to be paid. On the Goldfields, if it is a cash payment, the insurance runs into £12 17s. 6d.; if it is a hire purchase transaction, the premium is £15 10s. On a £400 basis, whereas the people in the metropolitan area would pay a premium of £14 4s. 6d., on the Goldfields a payment of £17 16s. 6d. would be involved or a difference of £3 12s. in favour of the metropolitan owner. In the circumstances, we consider that we are being overtaxed and I propose to place an amendment on the notice paper to deal with that phase.

HON. H. A. C. DAFFEN (Central) [5.8]: It is generally conceded that the proposition set out in the Bill is a very good idea because it will mean a saving of time and trouble to motorists who will be able to carry out their registration and insurance at the one time and make the one comprehensive payment. The proposal is also satisfactory from the point of view of local governing authorities because of the uniformity of procedure that will be followed, particularly where new business is concerned.

Much difficulty has been experienced in the past with respect to the presentation of incomplete documents, while often no documents at all are made available. The work involved, even though it may not be great, imposes some extra work upon local governing authorities for which they are entitled to some recompense. It is not merely a matter of the service rendered but also the responsibilities that have to be accepted. For that reason I think they are entitled to some remuneration. That is the opinion held by some local authorities in the province I represent.

The procedure is very simple. The charge for insurance is uniform and it is to be added to the license fee; receipts are recorded; periodically cheques have to be drawn and, together with the list of receipts, sent to the trust. There is not very much in that for local authorities to undertake, but it all means so much responsibility. Other considerations that are involved include correspondence, banking, collection of wrongly dated cheques and perhaps cheques returned marked, "refer to drawer," and so on. In all these circumstances, it is felt that the local authority should receive some recompense. The Geraldton Municipal Council is quite prepared to leave the decision to the trust as to just what amount should be paid in the form of commission to local governing bodies, but I suggest 5 per cent. I should say that would apply also to most local governing authorities. I support the second reading of the Bill.

HON. L. CRAIG (South-West) [5.11]: It appeals to me as not unjust that local authorities should receive some small recompense for the work involved. The work may not be very much but, as Mr. Daffen pointed out, it will involve some responsibility. Another point is that more money will flow to the insurance pool.

The Honorary Minister for Agriculture: Why?

Hon. L. CRAIG: In the past, the insurance companies incurred much expense in the conduct of the third party risk section of their business. Now the amount available for the payment of compensation will be considerably more seeing that the companies will not be put to the same expense in collecting premiums as in the past. In the circumstances, some proportion of the total sum derived should be made available to the local governing authorities in recognition of the extra work undertaken.

I am the chairman of a road board and I find that half the time of the secretary is taken up with work that is not part of his ordinary duties, which concern administration, maintenance of roads and so on. At each monthly meeting of the board, we are inundated with forms to be filled in and returns from Government departments and others seeking information. I admit that we treat half of them as so much waste paper and do not bother about them as we have more important work to do. This is a small matter but it represents an additional imposition on local governing authorities. As it will mean a considerable saving to the insurance companies, it is not unreasonable to provide some small remuneration for local authorities in respect of the work entailed.

Hon. G. Bennetts: What do you think would be a fair amount?

Hon. L. CRAIG: I cannot say definitely, but I should think something like 5 per cent.

HON. H. TUCKEY (South-West) [5.14]: The proposal embodied in the Bill reminds me of the work that devolved upon local governing authorities when the War Damage Commission was in operation. Frequently in those days, road board secretaries were asked to carry out duties that normally did not come within their province at all. I trust that when the Bill is dealt with in Committee members will agree to local authorities receiving some small remuneration in return for the task they will be asked to carry out. The fact is that they will have to handle a large sum of money and the proposal must, in various ways, save other people a lot of work. The road boards and municipalities are therefore entitled to receive commission. I know that this will entail a great deal more work for them; and as other members have pointed out, they are entitled to a fair percentage—say, 5 per cent. —for their labour. I hope that at the Committee stage an amendment on those lines will be carried.

On motion by Hon. L. A. Logan, debate adjourned.

BILL—STIPENDIARY MAGISTRATES ACT AMENDMENT.

Second Reading.

Debate resumed from the 4th November.

HON. J. A. DIMMITT (Metropolitan-Suburban) [5.17]: I think that in his contribution to this debate Mr. Watson raised an issue of some importance. He pointed out that stipendiary magistrates are the only people receiving salaries from the Treasury and whose employment is governed by Act of Parliament, who did not receive the increases in salary awarded last year when the Constitution Acts Amendment (Allowances and Salaries Adjustment) Bill was passed through both Houses of Parliament.

It seems to me that the stipendiary magistrates have some reasonable cause for being aggrieved that they of all the people employed by the Government under Parliamentary Acts were the only ones who failed to receive salary increases at the time all others enjoyed that privilege. I therefore think it was a very reasonable suggestion that Mr. Watson made, namely, that, at the appropriate time, a message should be sent from this House to another place suggesting that consideration might be given to making the salary increase, so belatedly being granted to the stipendiary magistrates, retrospective to the date when all other persons similarly employed enjoyed that benefit. The Chief Secretary mentioned that stipendiary magistrates frequently obtain extra emolument as a result of appointments as—in one case—a Coal Commissioner and in other cases as Royal Commissioners.

I would point out, however, that that does not apply to all stipendiary magistrates. Some simply receive the salary that goes with the office, and they do not have these other appointments which bring extra remuneration. The senior magistrate, Mr. MacMillan, is a case in point. I think I can safely say that over the 13 years in which he has had experience as a magistrate, he has seldom, if ever, been appointed to one of those positions that would have given him extra money. I strongly recommend the House to support the proposal that Mr. Watson intends to move at the Committee stage, or at the third reading stage, to the effect that we recommend in a message to another place that the operation of this measure be made retrospective to the 15th October, 1947. I support the Bill.

HON. G. FRASER (West) [5.20]: There is only one point to which I want to make reference. I know we are not allowed to anticipate what might happen at the Committee stage. But there is a limit—both a minimum and a maximum limit—in this Bill. I would like the Minister to let us know what the salaries of the stipendiary magistrates are at present, because the proposed amendment—

Hon. J. A. Dimmitt: We do not amend.

Hon. G. FRASER: That is so. This is a money Bill. But the suggestion that has been made regarding a message to another place may conflict with the maximum already in the Bill. I think that is a point we should have cleared up.

Hon. L. Craig: Some of the older ones must be on the maximum.

Hon. G. FRASER: We do not know. The Bill provides for an increase between what is now being paid and the maximum proposed in the measure. If we had the information I have requested, it would give us an idea of how to deal with the suggestion

put forward by Mr. Watson and supported by Mr. Dimmitt.

On motion by Hon. H. A. C. Daffen, debate adjourned.

BILL—POULTRY INDUSTRY (TRUST FUND).

Second Reading.

THE HONORARY MINISTER FOR AGRICULTURE (Hon. G. B. Wood—East) [5.24] in moving the second reading said: This is an agricultural Bill which would have been introduced here in the first instance but was brought down in another place because it is one requiring appropriation. The history of this type of legislation goes back to 1941 when the Fruit Industry (Trust Fund) Bill was passed. Members will recall that last year I introduced a similar measure for the benefit of the potato industry. This Bill is for the purpose of creating a trust fund for the poultry industry on like lines. In fact, its contents are practically uniform with those of the other two measures I have mentioned.

Hon. L. Craig: What will the money be used for—promoting research?

The HONORARY MINISTER FOR AGRICULTURE: I will deal with that later on, if the hon. member will have a little patience. This Bill was introduced at the request of those engaged in the poultry industry and concerns that industry only. A producer, for the purposes of the measure, is defined as one who has 20 head of poultry, just as is the case with regard to the Marketing of Eggs Act. Provision is made for the establishment of a poultry industry trust fund committee to administer the Act and for a levy to be made on a certain number of eggs. This will not inflict hardship on anybody.

The committee will consist of three members, who will be appointed by the Governor. Two will be persons who have been nominated by the Poultry Farmers' Association of Western Australia. Instead of an election being held, the association asked that its nomination of two members be accepted. The third member of the committee will be an officer of the Department of Agriculture, who will be chairman. The chairman and members of the committee will be entitled to such remuneration as may be prescribed. Very little remuneration has been given to members of such committees associated with other industries—usually only travelling expenses. The fund is to consist of contributions made by producers, any moneys appropriated by Parliament for the purposes of the measure, and penalties imposed for offences. Each producer will be required to contribute one penny for every 30 dozen eggs. That has been included at the request of the association and is considered to be sufficient to build up the fund required for the purposes of the Act.

Hon. G. Fraser: Do you know what amount will be collected?

The HONORARY MINISTER FOR AGRICULTURE: No. I tried to obtain the information but it is difficult to ascertain. It can be worked out on the local consumption of eggs and eggs exported. It would be around £1,500 a year.

Hon. A. L. Loton: How will the money be collected?

The HONORARY MINISTER FOR AGRICULTURE: It will be easy to collect. The collection is to be made by the Egg Board. I have had a request from those engaged in the vegetable industry for such a trust fund. In a case of that kind collection would be difficult. The Fruit Industry Trust Fund was first of all established for the apple and pear producers, but so successful was it that the citrus growers were included at their own request and also stone fruit producers. I mention that to indicate how successful these funds have been in the past. Mr. Craig, by interjection, asked for what purpose the fund would be used, and whether research would be undertaken. It will be. The Bill provides that the moneys in the fund shall, in the first instance, be charged with the payment of the following expenses:—

> (a) The costs of the administration of this Act.
>
> (b) The fees and allowances of the members of the committee.

The relevant clause continues—

> (2) After payment of the expenses referred to in the last preceding subsection, and subject in every case to the approval in writing of the Minister, the moneys in the Fund may be used for all or any of the following purposes—

(a) The payment of the whole or portion of the costs and expenses of measures taken to prevent or eradicate pests and diseases affecting poultry or the eggs thereof.

(b) The payment of compensation to producers in respect of the whole or portion of losses suffered by them as a result of measures taken to prevent or eradicate the pests and diseases aforesaid.

We had an outbreak recently of laryngotracheitis. Had such a fund been in existence then, it would have saved a lot of heart-burning and the producers affected would have been compensated. As a matter of fact, some were compensated by the Treasury; but they did not receive such compensation as a right. Had a fund been available, they could have drawn upon it for payment to which they were entitled.

Hon. G. Fraser: Did you say they were compensated?

The HONORARY MINISTER FOR AGRICULTURE: Yes. With the Under Secretary for Agriculture, I personally investigated the cases of two men in the hon. member's own province. One was a man named Faulkner; I do not remember the other man's name. They each received £150. I am surprised the hon. member did not know that, seeing that he represents them.

Hon. G. Fraser: I know I had a hard job trying to get compensation for them!

The HONORARY MINISTER FOR AGRICULTURE: If the hon. member wishes, I will show him the files which indicate that they received compensation. If we had had such a fund as is proposed, others might have been compensated. It is hard to decide who is entitled to compensation in such cases, but those two men received payment. Other directions in which the moneys in the proposed fund are to be spent are—

(c) The payment of the costs of the promotion and encouragement of scientific research for the improvement of poultry and egg production, and of the transport of such eggs and poultry.

(d) The provision of financial help for the Association and its branches in the carrying out of its activities for the benefit of producers.

Provided that such financial help shall only be granted when recommended by the Committee and approved by the Minister. . .

That was inserted as a safeguard. There might be a committee with two producers who desired to be extravagant in their organisation and to provide an exorbitant salary for the secretary. That proviso will be in the interests of the producers. The Government has reserved an area in the Herdsmans Lake district for a poultry research station and is considering the possibility of undertaking preliminary work in the immediate future. Should no serious outbreak of disease occur for a year or two, quite a substantial amount will have been raised and some of it can be used to undertake special research in the area I have mentioned. I think that answers Mr. Craig's query. There is no doubt that the committee, with the advice of officers of the Department of Agriculture, will devote money to research at this station, at the University or anywhere else, if it is thought desirable. I move—

That the Bill be now read a second time.

HON. G. FRASER (West) [5.31]: This Bill deals with one of the points that I put up to the Premier, during a deputation, while laryngotracheitis was at its worst. Naturally, I am prepared to support the measure, but I wish to query the statement of the Honorary Minister for Agriculture as to payment of compensation because, at the time when the disease was prevalent, we approached the Government on the question of compensation and received the reply that all the Government was prepared to do was to make money available as free-of-interest loans. It is news to me if actual compensation was paid.

The Honorary Minister for Agriculture: Do you not take my word for it?

Hon. G. FRASER: I do, and it is refreshing to learn that compensation was paid, but I wanted to be sure the Honorary Minister for Agriculture was not confusing compensation with the granting of free-of-interest loans.

The Honorary Minister for Agriculture: Such loans were granted, also.

Hon. G. FRASER: The straight-out compensation must have been an afterthought on the part of the Government, because those of us who were looking after the growers at that time were advised that the Government would not pay compensation but would make money available in the form of free-of-interest loans.

The Honorary Minister for Agriculture: The compensation was granted after my personal inspection.

Hon. G. FRASER: I am glad to know that the Honorary Minister for Agriculture is able to do good, at least on some occasions. I feel that the provisions of the Bill when put into operation will, in years to come, be of benefit to the poultry growers of this State. It is terrible when, through a disease of this sort, growers have their means of living taken from them in a few days or weeks. I know of one man who, after struggling for seven years to build up a big flock of poultry, saw the whole of his work go by the board in a matter of a week or two. Had this fund then been in existence, it would have been a godsend to people who suffered in that way. Although I think the fund is being established at a late hour, it will be of benefit in the future. I feel that the penalties provided are a little harsh. There is provision for penalties of £10, £50 and, in another case, £100.

Hon. J. A. Dimmitt: They are the maximums.

Hon. G. FRASER: That is so, but even a maximum can be set too high. The offences for which the penalties are provided are admittedly serious, but under other Acts, where more serious infringements are dealt with, the penalties, in many cases, are not as high as these. We might do well to reflect on the advisability of reducing the penalties, as sometimes there is a tendency to impose the maximum for even a second offence.

THE HONORARY MINISTER FOR AGRICULTURE (Hon. G. B. Wood—East—in reply) [5.35]: I have here a letter from Mr. McKenzie Clark, Acting Under Secretary for Agriculture, which reads—

> Following the interview you had with Messrs. Faulkner & Tate, Rome-road, Melville, on Friday, in connection with the provision of compensation for poultry losses owing to laryngotracheitis, I would suggest that these be considered on compassionate grounds and as follows:—
>
> (1) Owing to the extreme loss of poultry incurred by them owing to the disease.
>
> No other poultry-owner is known to have been so severely affected and experienced such losses.
>
> (2) In view of the assistance given to the department in the diagnosis of the disease. This was made possible owing to their reporting their losses regularly and making poultry available for testing purposes.

It will be seen, therefore, that any compensation paid to Messrs. Faulkner & Tate will apply to them only, as no other poultry farmers have given such assistance nor experienced such extreme losses.

The matter was taken to Cabinet, which agreed to the payment of £150 each to Faulkner and Tate. Strangely enough, there is no record of Mr. Tate receiving anything, though there is a record of Mr. Faulkner receiving the payment. Whether Mr. Tate rode the high horse and wanted more, I do not know.

Hon. E. H. Gray: One of them got it and the other did not?

The HONORARY MINISTER FOR AGRICULTURE: Yes. There is no record on the file of both of them having received the payment. I have made that explanation in case Mr. Fraser might see Mr. Tate and be informed that that gentleman did not receive the payment. Others were helped by free-of-interest loans, but the files show these two men as having suffered more than anyone else. I tried to get more compensation for them, but a higher sum was not agreed to. I hope the Bill will receive the support of the House.

Question put and passed.

Bill read a second time.

In Committee.

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

BILL—MATRIMONIAL CAUSES AND PERSONAL STATUS CODE.

Second Reading.

THE CHIEF SECRETARY (Hon. H. S. W. Parker—Metropolitan-Suburban) [5.40] in moving the second reading said: Although this is a very important Bill, in reality its purpose is only to codify the existing law, with some few amendments, none of which is of very great import from the point of view of principle. The Bill was prepared by Mr. Justice Wolff—who takes a very keen interest in the matter—as a measure of law reform, with a view to cutting out unnecessary formulae, minimising the cost and clarifying the law as far as possible, so that the layman might understand it.

The laws of divorce have quite a history and I think it is necessary to give it briefly so that members may understand the context of the Bill. Originally, divorce was purely an ecclesiastical matter and only the Church could in any way interfere with marriage. The Church at that time would grant divorce—if such it could be called—only when it declared that the marriage was a nullity; for instance, when people married within the degrees of affinity not permitted by the Church. It would also grant a decree of nullity in cases of physical incapacity or mental aversion to intercourse. At a later date, it went further and would grant what was called a decree a mensa et thoro—that is, from the table and bed—which was equivalent to a judicial separation, and that exists to the present day.

In the time of Henry VIII, Parliament took charge and assumed power to grant divorces. For many years, in fact from that time until 1857, divorces could be granted only by Act of Parliament, and the records show many instances of that. The first statute dealing with divorce in England was one of 1857, which was copied by this State in an ordinance, 37 Vic. No. 19, which took over holus bolus the divorce law of England in 1863 or 1864. Under that Act, the grounds for divorce were diverse and the court had various powers. One power was for the dissolution of marriage, another for judicial separation. The third was the nullity, the fourth, restitution of conjugal rights, and the fifth was known as jactitation of marriage. That was where the court could order a person to discontinue claiming to be the spouse of another person.

Apparently at one time it was not uncommon for a woman to allege that she was the wife of a man, much to his embarrassment. He could then take action to put an end to her allegations, and that can be done at the present time. I think that particular action has long fallen into disuse. In the same court there could be established the legitimacy and validity of marriages and the right to be deemed a natural born British subject. Then, at a later date, the courts could reverse the decrees of judicial separation, grant damages against an adulterer and determine how the damages might be applied, grant the custody of the children, make provision for a wife, and deal with settlements of property and parties to matrimonial suits.

In 1912 we amended the ground for divorce and made the adultery of the husband a ground. Up to 1912 a woman could not obtain divorce on the ground of the adultery of her husband unless she coupled it with cruelty or some other such offence; but a man could always get a divorce from his wife on the ground of adultery. However, in 1912 the law was altered to make the status the same so that either party could get a divorce on the ground of adultery. We went further with our law and for the first time made the adultery of the husband, without any other ground, the basis for an order for dissolution at the suit of the wife and brought in grounds of desertion, habitual drunkenness, continual imprisonment, murderous assault and incurable insanity.

I am giving these grounds in rather broad terms because they have certain narrowing effects. Also, up to this time, a person could not get a divorce unless domiciled in Western Australia. "Domiciled" does not mean resident. It means the place where one's permanent home is established. Even if a person leaves the State for five or ten years, Western Australia would still be that person's permanent home, and he could not get a divorce except in Western Australia. If the husband of a woman living in Western Australia left the State and changed his domicil to some other country, that woman would then be left in the lurch and be unable to get a divorce.

The definition of "domicil" has widened the conception of that aspect. In the case of a married woman deserted by her husband provision is now made that the woman should be deemed to have retained the domicil she had when she was living with her husband, even if he had meanwhile become domiciled in another country. In 1919 a peculiar Act was passed by this Parliament which provided that where an order for restitution of conjugal rights was not obeyed, the party applying could obtain a divorce immediately on the basis that three years' desertion had taken place. This was know colloquially then as the "penny in the slot divorce." That Act was repealed 12 months afterwards. Although there is such an action as restitution of conjugal rights, which is to order one party to come back and live with the other and if

he or she does not return, then the desertion starts from that date, it was very seldom used and such an action has been unknown for many years.

As members know, divorce can be obtained on proof of three years' desertion. In 1925 a further ground for divorce was made and that was that a woman who had a separation allowance from her husband was entitled to get a divorce from him if the husband did not pay the allowance regularly over a period. The whole of the divorce laws were re-enacted in the Supreme Court Act, Part VI, in 1936. It is proposed to repeal that portion of the Supreme Court Act because the provision really should never have appeared in it. The Supreme Court Act deals with the administration of the court and not with the laws of the country.

Hon. Sir Charles Latham: Who put it in?

The CHIEF SECRETARY: It was put in—

Hon. Sir Charles Latham: Parliament put it in.

The CHIEF SECRETARY: Yes.

Hon. Sir Charles Latham: You were a member of the House at that time.

The CHIEF SECRETARY: Yes, I was here in 1935. It was put in and I personally saw the then Solicitor General and pointed out some of the errors to him but he would not correct them. Our present Chief Justice also pointed them out but the provision went in. If we want to amend the divorce law it is not to be found within the name of the Bill when it is termed "A Bill to amend the Supreme Court Act." It is later discovered to have something to do with divorce. That is wrong, and it is proposed to rectify the position. The matter is not important but I would prefer to deal with it under that statute than have it mixed up with some other Act. In reading through the Bill members will find that there is a slight alteration in the definition of "domicil." I do not think they will need to worry much about that because it is more of a technical nature.

The preparation of this code has a dual purpose. It is not only to declare the law but it is to remove certain anomalies to make the law so that anybody with ordinary intelligence will be able to understand it, and to provide what is lacking in many codes, that is to say, provision for constant revision and amendment. From time to time decisions are given in the courts which are interpretations of supposed desertions and suchlike and that is what is commonly called "judge-made law." Now, when there is some query raised in the courts, Parliament will have an opportunity of amending this particular measure, if passed, with a view to deciding what members desire it should be. They may or may not agree with the judge-made law and may alter it in this statute without having to go to the Supreme Court.

I would like to go through the clauses of the Bill briefly. Clause 3 deals with definitions. If members will read them it will be found they are very interesting because they give in statute form what the judges from time to time have set out to be the law. Matters such as collusion, condonation, conducing or contributing to collusion or condonation, and connivance are dealt with. In the Bill the meanings of those and other terms are all set out. Strange as it may seem, it is necessary to have a definition of "adultery" because it is an open question whether a man who commits rape commits adultery. However, the definition settles that question and if he commits such a crime he is regarded as guilty of adultery.

Then again, the definition of "child" includes an adopted child. These definitions which I have mentioned are not merely the whim of somebody; they are in the existing law. Clause 5 sets out the whole provisions of the statute and indicates what it is all about. The Bill permits the court to grant dissolution of marriages, judicial separations and declarations as to personal status. Declarations as to personal status I will deal with at a later stage. It will be noticed that the Bill has left untouched the restitution of conjugal rights and also jactitation of marriage.

Clause 6 is a very important one because it saves the filling in of a number of documents. At present, the necessary papers to initiate a divorce consist of three copies of a praecipe—I am assuming that there is a co-respondent—four copies of a petition; four copies of a citation and also there are affidavits to complete, besides searches and other requirements to be complied with. At present persons in divorce proceedings are called "petitioner, respondent and co-respondent," but in future they will

be known simply as "plaintiff and defendant or defendants." One important provision in the Bill is that the court may, if it so desires, hear any case in camera and may prohibit the publication of anything it so directs.

I am informed that at the present time it is not uncommon on an application to the court, for a decree of nullity to be granted on the ground of repugnance. That type of case is usually heard in Chambers and the public has no access, although there are quite a number of those cases. That, I think, is quite right. At the present time the man may obtain damages against an adulterer, a co-respondent, and this Bill now provides that damages may also be awarded against an adulteress. In these days where women have so much money it is common for them to induce a husband away and it has been thought that the deserted or wronged party should have some claim against that other woman.

As I have pointed out, the object of the procedure is to bring this phase into line with the ordinary civil procedure of the Supreme Court. Another provision is that where an application is made to the court for a divorce on the ground of, say, three years' desertion, and the time has not run out, it is sometimes very difficult to decide when the desertion commences. For instance, a man may leave his wife in a perfectly friendly atmosphere and then gradually cool off until he finally writes to her and says he does not intend to return.

The question then arises as to when the actual desertion commences. Although the person applying for divorce might think it is easy to decide when the desertion commences, the judge may rule against him, and that happens not infrequently. Now the judge may adjourn the case until the time has elapsed instead of throwing it out as was previously done. That procedure would, of course, save a lot of expense. The question of "domicil" is dealt with in Clause 14. The ground of "domicil" is based on the domicil of both parties. One is granted on the domicil of one party and members will find that the domicil sometimes, for the purposes of this Bill, shifts from the huband to the wife. Ordinarily the wife takes the domicil of her husband. There have been many cases of hardship as I have already explained The main principles as regards domicil are as follows:—

(1) Domicil of both parties.

(2) Domicil of the wife where she is deserted by the husband and was domiciled in Western Australia immediately prior to desertion.

(3) Domicil of the wife where she was domiciled in Western Australia and whilst so domiciled got a separation order from her husband or entered into a separation deed with him.

That relates to an action taken on the ground that the husband has not maintained his payments, not on the ground of desertion. This amendment is proposed really to adjust an anomaly.

(4) Residence of wife in Western Australia for not less than three years, where she has acquired a permanent bonafide residence in Western Australia.

This means that although she is not domiciled here, she will not be able to come here merely to take advantage of our divorce laws.

(5) Residence of both parties within the jurisdiction where the proceedings are founded on a ground which would be recognised by the law of the matrimonial domicil.

This means that both parties may be living here although they may not be domiciled here. There are six grounds for the dissolution of marriage, as follows:—

(a) Matrimonial offences involving immorality.

(b) Matrimonial offences involving serious bodily assaults by one spouse on the other.

(c) Desertion and offences analagous to desertion, e.g., failure to comply with maintenance order, habitual drunkenness, imprisonment.

(d) Incurable insanity.

(e) Five years' separation without any prospect of resumption of cohabitation.

(f) Marriages now treated as voidable, not necessarily void.

At present an incurably insane person may be divorced after having spent five years in an institution recognised under the Lunacy Act. This Bill seeks to provide a period of three years instead of five years. Under the heading of desertion has been included wilful and unreasonable refusal by one spouse to permit sexual intercourse. That is the law now and it has been stated in plain language in the Bill. There are cases where a marriage, for various reasons, is not consummated. Provision is made in the Bill that a marriage shall not be dissolved on the ground of incapacity to consummate unless action is

commenced within three years of the marriage. If parties live together for five or ten years, they cannot claim at the expiration of that period that the marriage has not been consummated. Action must be taken for dissolution within three years.

Another ground for dissolution, apart altogether from incapacity to consummate, is wilful and unreasonable refusal of one spouse to permit sexual intercourse. This refers to a marriage which has been consummated and, in that case, the subsequent refusal would have to continue for a period of three years. A difficulty has arisen where the husband or wife has not been heard of for seven years. There was a case in the court not long ago. The parties had separated and had not heard of each other for seven years, and one party married, after which the other spouse turned up. Provision is made that action may be taken to declare the missing spouse deceased and to dissolve the marriage, and in that event, the children of the later marriage would not be illegitimate and the marriage would be valid. The first marriage will be dissolved. At present the reverse is the case, which is a cause of great hardship.

Clause 17 states the grounds upon which a party may get a judicial separation. Some people have strong objection to divorce; they cannot live together and so they apply for a judicial separation. This may be granted on various grounds. Then the parties live apart, but this has a serious effect. The Bill provides that so long as an order for judicial separation remains undischarged, the property of the husband and of the wife shall devolve, should either die intestate, as though the survivor had predeceased the intestate. As a rule, when a judicial separation is granted, the husband has to provide for the wife, but a serious difficulty occurs when a question of property is involved. However, this is an action that is seldom taken. During my career in the law, I have heard of only one or two cases in the Supreme Court. Of course, there are hundreds of cases in the Police Court.

Hon. Sir Charles Latham: Should not that provision relating to property be separated from the divorce laws?

The CHIEF SECRETARY: No, because it is part and parcel of the proceedings and this Bill has been drawn with a view to avoiding the need for a multiplicity of actions. Therefore, provision is made for the devolution of property and also where there is a marriage settlement. When a marriage is dissolved in these circumstances, the question of what is to happen to the property arises, and so the Bill provides that the court may deal with it on the one action, instead of another action having to be taken afterwards. The effect of an order after a judicial separation has been granted is that the parties no longer cohabit, but so long as it is in force, the legal tie of marriage remains. As I have stated, people seldom apply for a judicial separation; they prefer a deed of separation without approaching the courts at all.

One of the most difficult problems in this branch of the law is the question of nullity. Consideration has been given to what are now regarded on the one hand, as voidable marriages, and on the other hand, marriages which are absolutely void. We have transferred the provisions relating to soluble marriages and the clause now under consideration—Clause 20—treats only of marriages that are void ab initio—a bigamous marriage and so forth. Those are the principal provisions dealing with divorce.

Members will appreciate that divorce affects rather more than the husband and wife; it affects the status of children, and the legitimacy laws are rather difficult. The first Legitimacy Declaration Act was passed in England in 1858 and was copied in this State and included in the Supreme Court Act of 1935. These provisions have been difficult to construe and have failed to give the relief intended by the draftsman. This criticism has been regarded as well founded. It has been held that the court has no power to pronounce a merely declaratory judgment as to the validity of a marriage, but that statement is open to question. In drafting this provision, an effort has been made to widen it to meet all cases and to make it clear that all declarations really come within the provisions of the Supreme Court Act providing for declaratory judgments.

A judgment of this sort is said to be a judgment in rem as distinct from a judgment in persona. In persona means purely personal, while in rem means everyone must take notice of it. If A sues B for £5, only A and B are affected, but a judgment in rem affects everyone. When a declaration is made as to the legitimacy of an indi-

vidual, it affects not only that individual, but also other people, perhaps the grandparents, who may be leaving money or who may die intestate. Therefore a judgment in rem is all-embracing.

There is no reason why a person who has a genuine interest in maintaining the negative proposition as to a person's legitimacy or as to the validity of a marriage should not be able to approach the court for a declaration. These declarations are binding only on those persons who are parties to the proceedings and on persons who were notified and had reasonable opportunity to appear. There is a saving provision that where fraud is proved, no person shall be prejudiced by the declaration, and the same provisions have been repeated in the general provisions relating to the effect of final orders. Clause 22 is designed to permit inferior courts before which a question of marriage may arise to refer the matter to the Supreme Court, if so desired.

Sitting suspended from 6.15 to 7.30 p.m.

The CHIEF SECRETARY: Before tea, I was dealing with Clause 22, the intention of which is to avoid multiplicity of proceedings. Clause 24 deals with parties. I have already pointed out that we now have plaintiff and defendant, instead of petitioner and respondent, and I have also pointed out who may commence an action and who may be joined in it. Clause 26 deals with absolute bars to a divorce, such as connivance, collusion and certain other grounds which are set out in detail in the clause.

Clause 27 outlines certain discretionary powers which the court may act upon if it thinks fit. There are certain details which perhaps I should leave until we reach the Committee stage when, if members so desire, I shall be only too pleased to furnish any further information, if I am able to give it. Clause 30 relates to the trial. At present, in a defended divorce case, either party may apply to have it heard by a jury instead of by a judge. This clause provides that the trial shall be heard by a judge unless, for special reasons, he may decide that a jury is the proper tribunal.

Hon. Sir Charles Latham: Does the appellant now determine that?

The CHIEF SECRETARY: It is almost as of right. The judge may refuse an order, but, generally speaking, it can be obtained. The next important clause is Clause 33. Some years ago there was a very famous divorce case, Russell v. Russell, which finally went to the House of Lords. The respondent wife gave birth to a child and the husband desired to prove that it could not be his child, because he and his wife had not lived together during the necessary period, nor had they seen each other during that period. The House of Lords decided that evidence could not be given of non-access. Neither spouse is permitted to give such evidence. The difficulty has since been overcome in various ways.

During the war, there were many cases where the wife gave birth to a child while the husband was away and so he could not possibly have been the father of the child. That difficulty was overcome by getting the military authorities to produce records showing that the husband had left the State on a certain date and was away, or had not returned, until a particular day. But the husband was not allowed to get into the witness box and say that he was away. He could not give evidence that there was non-access. Members can see that was rather an absurdity. When that decision was given by the House of Lords, there was a tremendous amount of discussion among lawyers as to whether it was correct or incorrect; and from time to time the courts have endeavoured to get round that particular decision.

This Bill makes it perfectly clear that either party to a marriage may give evidence proving, or tending to prove, that the parties to the marriage did not have sexual relations with each other at any particular time, notwithstanding that such evidence would show, or tend to show, that any child born to the wife during the marriage was illegitimate. The grounds of decision in Russell v. Russell were that a court could not give a decision of non-access and thus bastardise the offspring. However, as I said, this amendment of the law, which I consider is essential, will overcome that difficulty.

Another important amendment relates to costs. At present, the court will invariably make the husband pay the costs even if he is successful. If the Bill passes, costs may be awarded against the wife. Very often,

in an unsuccessful application for divorce by the husband, the wife may perhaps have acted indiscreetly, but there is insufficient evidence to prove adultery. In such cases the husband has to pay the wife's costs, while the co-respondent escapes liability altogether. Sometimes the position is that the husband has to pay the wife's costs and the co-respondent both the wife's and the husband's costs; but as the co-respondent is usually a man of straw, the husband is obliged to pay the wife's costs. This Bill provides that the wife herself can be mulct in costs.

Hon. Sir Charles Latham: But if she has not got the money, the husband still has to pay.

The CHIEF SECRETARY: Very often the wife has the money. In many instances the guilty wife has the husband's estate, as he was foolish enough to put his property in her name. There is another serious alteration in the law. At present, the decree absolute can be made at any time up to six months after the decree nisi. Sometimes the judge will allow a month or three months for the return of the decree absolute. This Bill provides that a decree absolute shall not issue until three months after the decree nisi.

It goes further. In another clause it provides that no marriage may take place until three months after the decree absolute, so that that, in effect, makes six months the period of time. There is no discretion by anyone under that provision. It is definite and distinct. The reason for making the return of the decree absolute three months after the decree nisi is because the parties have three months in which to appeal. Either party may appeal, or the Attorney General may intervene if there is any suggestion of collusion, fraud or perjury.

Hon. Sir Charles Latham: Three months after the decree absolute is granted?

The CHIEF SECRETARY: Yes.

Hon. Sir Charles Latham: That might only be delaying a marriage that ought to take place.

The CHIEF SECRETARY: That might be so. It might be that the parties should not marry. However, that is a point for members to decide. On the question of damages, the court may award damages against the adulterer or adulteress. The damages may be awarded perhaps to the guilty wife or to the children, as the court thinks fit, in order to make provision for the wife or for the maintenance of the children. As to the final order, certain difficulties arise where perhaps it subsequently turns out in after years that the order should not have been made. The respondent —the defendant—perhaps has never heard of the divorce proceedings; lies have been told that the proceedings were served on him, or it may be that they were served and he did not have an opportunity physically, owing to his distance from the court, to enter an appearance and defend the case.

Provision is made that in the event of a divorce being granted and the parties re-marrying, the children of any second marriage will not be bastardised. They will be considered as legitimate and will be able to take as heirs of any people who happen to die intestate. Provision is made for the court to deal with the custody of the children and for the settling of questions arising on the settlement of property and so on. Provision is also made as to the grounds upon which an appeal may be taken. Another important amendment is as to the enforcement of orders for maintenance. Where a wife obtains an order in the Police Court for maintenance and the husband makes default, he is liable to be imprisoned, on a warrant, on a certain specified scale.

But as regards cases heard in the Supreme Court, there is no such provision. The proceedings in that court are, in fact, exceedingly difficult and it is almost impossible for a smart individual to be brought to book. This Bill gives to the Supreme Court the same power as the Police Court has. It seems rather strange that the Police Court should have greater power to deal with this matter than the Supreme Court; but, if the Bill passes, the Supreme Court will have power to issue a warrant for the arrest of a defaulter. Provision is also made that a man who is imprisoned for non-payment of maintenance is not relieved of his debt. He can still be sued for the maintenance, but cannot be imprisoned again in respect of the same amount. The debt still exists. Formerly it was wiped out when he was arrested under the Police Court procedure.

Hon. Sir Charles Latham: Could he not be imprisoned time after time?

The CHIEF SECRETARY: If he did not pay, but not for the one amount. If he does not pay, say, this month, he can be imprisoned. If he does not pay six months later, he can again be imprisoned.

Hon. Sir Charles Latham: I have known of a man to be arrested just after his release from prison.

The CHIEF SECRETARY: That is so. He has his remedy, which is a simple one in the Police Court, by applying to have the order cancelled while he is in jail, but he does not do it. Members can take it that, generally speaking, the man put inside for non-payment of maintenance generally deserves it.

Hon. A. L. Loton: How about the man who pays a percentage of his arrears?

The CHIEF SECRETARY: Then he gets a percentage off his time. There is no trouble about that. Nullity cases create a difficulty in regard to illegitimate children. Obviously the children of a null and void marriage are illegitimate. This measure provides that such children shall be protected and will no longer be illegitimate, but will have the rights of any child born in wedlock. There is a strange provision—a new one—in Clause 63 which states—

> At the expiration of five years from the commencement of this Code and periodically every five years thereafter, and oftener if the circumstances require, the Chief Justice shall furnish the Attorney General with a report on the working of this Code and the Rules made thereunder, drawing attention to any anomalies in the law and to any amendments that may be advisable, and the Attorney General shall submit the same to Parliament.

The object is that the law should be kept up to date and where there have been judge-made laws, if it is thought fit, they might be altered. Although we speak of judge-made law, it must be remembered that judges often have to give a decision repugnant to them, but they have to do so according to law. We often hear a judge say, "Well, I have to give this decision but I think the legislature should step in and alter the law." It must not be thought, in respect of judge-made law, that the judge necessarily makes the decision of his own free will. The Bill will reform the procedure very considerably; it will alter the archaic procedure that has come down the centuries, and it will be a valuable contribution to law reform in this State. I commend it to members and move—

That the Bill be now read a second time.

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

BILL—JUSTICES ACT AMENDMENT.

Second Reading.

Debate resumed from the 3rd November.

HON. E. M. HEENAN (North-East) [7.48]: The implications of this Bill are not very wide, and I asked for the adjournment principally because the first main amendment is intended to effect an alteration in the method of setting out appeals which, at first sight, I thought might be an embarrassment and a cause of expense to appellants in the country areas and on the Goldfields. But after looking into the matter and discussing it with lawyers on the Goldfields, I am satisfied that my fears were ungrounded. There is an amendment also to Section 187 of which members should be aware. I am not personally very keen on it.

At present, if a person wants to appeal against the decision of justices, he does so to a judge of the Supreme Court, and he has to enter into what we call a recognisance—that is, a written undertaking to pay the costs, of the appeal. That recognisance is entered into with or without sureties or, alternatively, the justice, before whom the recognisance is entered into—usually a magistrate—can order a sum of money, not less than £20, to be deposited. The effect of that, briefly, is that it is not always necessary for an appellant to deposit money, but it is sufficient if he signs a recognisance and has two sureties—that is, two guarantors to ensure that if the appeal is lost, the money will be forthcoming. That existing set-up is very useful to a poor individual who wants to appeal, and who has not £20 to put up but has a couple of friends to guarantee him.

The proposed amendment will set aside that state of affairs and make it obligatory for the actual money to be deposited so that anyone who wants to appeal in future—if Clause 5 is agreed to—will sign a recognisance and, in addition, will deposit a sum of money, not less than £25. The amount has

been increased. It is not £25, but not less than £25. To my mind that will be a further impediment in the way of a man appealing. We do not want a lot of frivolous appeals. If a man puts the whole of the machinery of the law into operation, I suppose it is right that the law should have some guarantee that he will pay. On the other hand, I am not in favour of anything that makes it more difficult for a man to appeal. Actually I cannot see anything much wrong with Section 187 as it now stands. The remaining clauses are largely incidental, but there is one fairly important amendment to Section 219. That is a rather remarkable section. It provides—

No costs shall be allowed against any Justice or police officer in respect or by reason of any appeal under this Act or of any proceedings in the Supreme Court in its control over summary convictions.

If a man is arrested by a policeman, haled before the court, convicted of drunken driving, assault or some other charge, and then appeals, he has to undertake all the expense of appealing, and if the judge finds that he has been wrongly convicted, by upholding his appeal, no costs can be granted against the police. So, even though the judge says, "You are right and I uphold your appeal," the man cannot get any costs against the police. That is the present law, and I do not know why we have allowed it to remain in that form for so long.

Hon. Sir Charles Latham: I agree with you; it ought to be altered.

Hon. E. M. HEENAN: The amendment in the Bill does not go the whole way, but it does make some modification of that state of affairs by providing that where a police officer appeals, it will be possible, in special circumstances, to get costs against the police, but that will only be possible in cases where the police appeal and not the litigant. I suppose we must be grateful for small mercies. The Bill does modify what I consider to be the unfair implications of Section 219. I propose to support the second reading.

Question put and passed.

Bill read a second time.

In Committee.

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

BILL—WORKERS' COMPENSATION ACT AMENDMENT.

In Committee.

Resumed from the 3rd November. Hon. J. A. Dimmitt in the Chair; the Honorary Minister for Agriculture in charge of the Bill.

Clause 11—Repeal of Sections 17, 23, 24, 25, 26, 27, 28, 29, 30, 31 and 32, and Sections 33, 34, 35, 36, 37, 38, 39, 40, 41, 42 and 43 added (partly considered):

Hon. H. K. WATSON: I move an amendment—

That in paragraph (b) of Subsection (3) of proposed new Section 33 the word "nominee" be struck out and the words "part-time" inserted in lieu.

This proposed new section contemplates the appointment of a board consisting of three full-time members, and if the board intends to confine its activities to what may be reasonably considered its legitimate activities, it will have a lot of spare time on its hands for many years. The board would be adequately constituted to discharge its duties if there were a full-time chairman with two part-time members. The Transport Board and the Milk Board each comprises a full-time chairman and two or more part-time members.

Hon. E. M. Davies: And some of them are not very successful.

Hon. H. K. WATSON: The work of those two boards would be much more extensive than that of this board.

Hon. G. Bennetts: A lot more study is required of the members of this board.

Hon. H. K. WATSON: I trust that my amendment will be agreed to on the principles I have outlined and also on the basis of economy.

The HONORARY MINISTER FOR AGRICULTURE: I oppose the amendment. The board is very important, and the other evening the Committee agreed that it should be constituted. If it is to have a full-time chairman and two part-time members only, it will be farcical. The board will be very busy.

Hon. G. Bennetts: Too right, it will.

The HONORARY MINISTER FOR AGRICULTURE: If we are going to have a board, let us have one that is worth something. The chairman will need to have

fairly close contact with both the other members, and if the amendment is agreed to these other members would probably have jobs somewhere else and would only be available at night-time or at other odd periods to suit themselves.

Hon. H. K. Watson: Do the Milk Board, the Transport Board or the Fremantle Harbour Trust do that?

The HONORARY MINISTER FOR AGRICULTURE: They are quite different from boards such as this.

Hon. H. Hearn: In what way?

The HONORARY MINISTER FOR AGRICULTURE: The Milk Board is representative of producers and consumers, and most of them are retired men. As somebody has said, the Milk Board is not doing much of a job today through having part-time members, and I do not care who hears me say that. Certain members of that board are not doing their job because they are only part-time and do not have that interest in the work that they should. I will not have the Milk Board used as a demonstration in regard to part-time members.

Hon. E. H. GRAY: I support the remarks of the Minister and intend to vote against the amendment. We have thrashed out the question of the board and all phases of its appointment have been discussed. The amendment absolutely undermines the principles already agreed upon. In view of the arguments used by Dr. Hislop as to the work of this board in research and other matters, it is absolutely essential that all its members should be full-time. We cannot compare a section of industry, such as Mr. Watson did in regard to milk and transport, with a board which is dealing with all phases of industry in Western Australia. This board is there to see that justice is done to the workers.

The Honorary Minister for Agriculture: You might as well not have a board.

Hon. E. H. GRAY: Yes, the board in such a case would be useless.

Hon. A. L. LOTON: I was opposed to the formation of a board in the first place, but the Committee agreed that one should be constituted, and in view of that I think we must give the board a regular and full-time membership. I think two nominee members will give satisfaction to the chairman, as the Minister has pointed out.

Hon. Sir CHARLES LATHAM: The set-up of the Arbitration Court is somewhat similar to what will be the position if the board, as proposed in the Bill, is agreed to. The Arbitration Court has an employers' representative and an employees' representative, but I do not think we have ever found them agreeing on any point.

The Chief Secretary: Yes.

Hon. Sir CHARLES LATHAM: I have searched through many of their decisions, and when the final reports have been made it is almost always found that the employers' representative disagrees with the employees' representative. I can visualise that the cost of this board will be greatly increased above the £8,000 mentioned by the Minister because, if we look at what is set out for the members to do in Clause 10, it will be seen that they will have an unending job. After all, the decision is going to rest on the legal man and, so long as the legal man is well versed in Workers' Compensation Acts, the laymen could be called in when required. The Employers' Federation will represent the employers—that is quite certain—and another man will represent the workers, and the result will be just the same as it is with the Arbitration Court. We would get just as good a decision if we had one man only. In view of the decision of the Committee the other night, I am not going to say that there shall not be a board of three, but I cannot see what the other two men are going to do except create a huge department covering all the ramifications and, instead of an expenditure of £8,000, it will be an expenditure of £20,000. I support the amendment.

Hon. E. M. HEENAN: In considering the Bill, we will not arrive at any wise decisions by exaggerating or overstating, as Sir Charles Latham has done. The Bill does not intend to create another huge department.

Hon. Sir Charles Latham: Have you read what powers are going to be given to it?

Hon. E. M. HEENAN: Yes, and that is the argument for three full-time men to be appointed. This will be a court and these men will be experts in this phase of our economic life. They will play a very important part affecting the lives of at least

80 per cent. of the people of Western Australia who are workers. It is wrong to say that of the three men appointed the chairman will always be the one to give the decision. There will be one man representing the insurers and another representing those insured.

I am sure that in many instances the three members of the board will be in agreement in their decisions. We would make a serious mistake if we compared the board too closely with the Arbitration Court where there are directly conflicting interests in nearly every application that goes before it. This tribunal will deal with medical questions and those relating to facts, and I am positive that the workers' representative and the insurers' representative will not be as diametrically opposed as Sir Charles Latham suggested. In the course of carrying out their work, the board members will become most knowledgeable and expert, and it is imperative that they be employed full-time.

Hon. G. BENNETTS: I oppose the amendment because the work entailed will require a full-time board. As it becomes more competent, the board will be a protection to both employer and employee. A full knowledge of the various Acts, with which the board will be concerned, will involve considerable study.

The CHIEF SECRETARY: The Committee has lost sight of the purposes for which the board is to be established. It will have various functions, one of which will be judicial, and will have to decide questions that arise in compensation cases. Its main function will be to reduce the incidence of accidents in industry, to investigate safety measures and recommend their installation.

Hon. H. K. Watson: That is an argument different from what you used the other night when you said it should be described as a court.

Hon. H. Hearn: And does not the Machinery Department do what you suggest regarding safety measures?

The CHIEF SECRETARY: Obviously, if the chairman only were to go round and inspect premises, he would not be able to see as much as the employer or employee could point out. One object of the board is to reduce taxation in the form of premiums payable for workers' compensation. It will undoubtedly considerably reduce costs to industry if it does its work efficiently. The task carried out by the machinery inspectors and the factories inspectors is an entirely different proposition.

Hon. H. Hearn: In what way?

The CHIEF SECRETARY: In every possible way.

Hon. H. Hearn: They inquire about safety appliances.

The CHIEF SECRETARY: Yes, to see that employers are complying with the regulations.

Hon. H. Hearn: They suggest safety appliances.

The CHIEF SECRETARY: Only within the scope of the regulations. The board will be constituted for the purpose of a continuous investigation and research into the whole matter of workers' compensation, with a view to reducing the incidence of accidents in industry. If it is to cost the enormous amount suggested by Sir Charles Latham, it is extraordinary that the Licensing Court, which travels from one end of the State to the other, has not developed into a big institution.

Hon. W. J. Mann: There is no comparison between them.

Hon. C. F. Baxter: Of course not.

The CHIEF SECRETARY: I consider the comparison quite sound. The board will deal with the questions that arise from the legal aspect. It will decide the allocation of money where lump sum settlements are concerned, and the reasonableness or otherwise of claims. I do not suggest that the board will send out inspectors everywhere but that it will make a general review of the position to keep down the cost of workers' compensation.

Hon. H. HEARN: Surely the Chief Secretary is not serious when he says that the board will carry out a detailed investigation of the industrial life of the State!

The Chief Secretary: I am. You read the Bill!

Hon. H. HEARN: Inspectors under the various Acts that have been mentioned deal with safety devices and other such matters; they have conferences with managers of in-

dustrial concerns regarding the installation of new safety devices. Surely nothing more than that is necessary. If inspections are to be carried out by the board as well, that is another reason why we should have regard to the cost involved, because it will certainly be impossible for three men to do what has been suggested. This will provide industry with another burden of inspectors.

The Chief Secretary: Nothing of the sort. As Mr. Heenan said, it is no use exaggerating.

The CHAIRMAN: Order!

Hon. H. HEARN: Up to date, the cost of workers' compensation as regards actual administration indicates that there is not full-time work for three men. I support the amendment.

Hon. C. F. BAXTER: The other evening the Minister said that the board was really a court. If that is so, why did not the Government constitute it a court? It will represent only another burden upon industry. The Minister said that the premiums will not be increased as a result of this measure, but, considering its ramifications, the cost of premiums will increase by 35 per cent. Obviously the board will require a large staff if it is to carry out the inspectorial work suggested.

Hon. Sir Charles Latham: And industry will have to pay for it.

Hon. C. F. BAXTER: Naturally. As Mr. Hearn pointed out, there are inspectors under other Acts doing much of this work, so that the Bill will mean overlapping in that respect. To compare the board with the Licensing Court is most ridiculous.

Hon. E. M. Davies: Some of the amendments proposed are ridiculous.

Hon. C. F. BAXTER: Of course, from a Labour point of view. Industry is the section that will suffer.

Hon. E. M. Davies: Industry will pass the extra cost on.

The CHAIRMAN: Order! Will Mr. Baxter resume his seat. Members will have an opportunity to contribute to the debate, and I ask them not to interrupt the member who has the floor. Mr. Baxter will proceed.

Hon. C. F. BAXTER: The amendment provides for two part-time members of the board, which should be sufficient for a small community like ours. A similar board costs Victoria £4,000 a year; but it does not stop at that, because of the enormous expense that is incurred in filling in forms and so forth. I cannot for the life of me believe that the Committee will agree to the duties of the board being as set out in the Bill. If it does, the cost will certainly increase to £20,000 as suggested by Sir Charles Latham—unless we amend the Bill considerably. It is all very well to play with other people's money; the Government is very free in doing that. The cost involved in this work will have to be found out of the insurance premiums, and industry will have to pay. The time will come when it will not be able to carry such a heavy burden, and at that stage it will not be able to provide work for the employees.

I regard the amendment as reasonable. This board will not function like the Arbitration Court, which takes evidence in full and arrives at a decision. I do not see why we should not have some provision like that operating in New South Wales where a conciliation officer is doing good work. The chairman of the Royal Commission went across to Victoria, where there are ten times the number of insurers that we have in this State, and then came back and recommended a board on the same basis as that functioning in Victoria—and the Government swallowed his recommendation to adopt the Victorian system holus bolus.

The Honorary Minister for Agriculture: No, it did not.

Hon. C. F. BAXTER: It adopted some of the most far-reaching and vexatious recommendations and has included them in the Bill. I am surprised that the Government has introduced legislation to impose such a burden on our primary and secondary industries.

Hon. W. J. MANN: The Minister has weakened his own case. He told the Committee that this full-time board would go round the State making its own investigations regarding industries. We already have inspectors under various Acts carrying out such investigations, yet we are to be saddled with a board to cost £8,000 which will duplicate some of the work. I

am inclined to agree with Sir Charles Latham that the cost of the board will be a great deal more than that.

Hon. E. M. Heenan: What is your estimate?

Hon. W. J. MANN: I have not made an estimate at all. But I am sorry no figures have been made available that might guide the Committee. Mr. Loton asked for the figures and we were told that it had not been possible to collate them.

Hon. Sir Charles Latham: That seems rather a weak answer to the question.

Hon. W. J. MANN: Yes. Had we been given the figures, we would be in a much better position to come to a decision.

The Honorary Minister for Agriculture: Why believe the £20,000 estimate?

Hon. W. J. MANN: I think the Minister's estimate of £8,000 is very low. It would be better for the Government to have these two men appointed part-time; and then, if it is not found possible for them to do the work, and they produce evidence that it is essential for them to be full-time members, the Act can be amended later.

Hon. J. G. HISLOP: We are conducting this discussion at the wrong end of the clause. If it is to remain unaltered there is every reason for three full-time officials, because they will have to carry out a considerable amount of inspectorial work themselves and have a certain amount carried out by appointed inspectors. They must spend a good deal of time in a judicial capacity and on research into methods of accident prevention. But if the amendments on the notice paper are accepted, only in part, there will probably be little need for three full-time men. I suggest that as there is a big variance of opinion between members as to what the duties of the board shall be, the proper time to discuss this particular matter is after we have considered proposed new Section 43.

There have been various estimates of what the board will cost. I was very active in pressing for the formation of a board: but I made it plain in my second reading speech that I required it to be a research rather than an inspectorial unit. If we are to have three full-time officials, I cannot imagine a legal man being appointed at anything less than £1,500, nor the two full-time members at anything under £1,000 each; so there is at least £3,500 a year in salaries. Then we would not get a capable registrar for under £1,000 a year, which makes the figure £4,500. Take into account the rent to be paid for a building and the cost of stenographers and other staff, and the figure would not be far short of £6,000.

Then the Bill states that the board may co-opt three medical practitioners. If those men were co-opted full-time, they and their staff would absorb another £5,000 a year between them. It is quite possible that the cost of the board when its inspectors are appointed would grow to something of the nature contemplated by Sir Charles. I admit that I am not in a position to say whether industry can stand a board costing from £15,000 to £20,000, or whether it would bring to industry the results the Minister expects in the way of a reduction of accidents and premiums.

I believe that my original idea that the board should be engaged in research rather than inspectorial work is the one that should be followed. I have no desire to see a board running round factories and workshops. I wish to see it making an intense study of methods of prevention of accidents. I suggest to the Minister that we might hold over the decision as to whether these men shall be employed part-time or full-time until we know what duties they are going to perform.

Hon. L. A. LOGAN: I find it hard to follow the reasoning of some members who at one stage say that the board will grow to such proportions that it will cost a terrific amount of money, and then propose amendments to provide that the members shall be part-time because there will not be sufficient work for them to do.

Hon. W. J. Mann: We do not know what work they will do.

Hon. L. A. LOGAN: Why have an amendment to the effect that two of them shall be part-time officials and then on the other hand declare that the board will cost a lot of money? I do not see why it will not be competent for this board to make use of inspectors already doing the job. I think it will. The only time the members of the board would need to make an inspection would be when they found that a certain type of accident was occurring too frequently. They will not appoint inspectors of their

own at all. There are six different departments of which they can make use. Instead of those departments acting separately, their activities will be co-ordinated by the board.

Hon. C. F. Baxter: Not on your life!

Hon. L. A. LOGAN: Probably the Minister has not explained the matter sufficiently, but I think that is the idea.

Hon. H. Hearn: That is not the history of Government departments.

The HONORARY MINISTER FOR AGRICULTURE: There has been a lot of exaggeration over this matter. The figure of £8,000 has been queried. I have had it from a reliable source that that would be near enough. Sir Charles Latham referred to £20,000. That was absolutely a stab in the dark. He does not know whether it would cost £20,000 or £5,000. He has not the slightest idea.

Hon. G. Bennetts: He is only making a guess.

The HONORARY MINISTER FOR AGRICULTURE: Probably a very bad guess, too. This board is expected to effect economies. A lot of money is being spent that should not be paid out, and this board would see that that was not done. As for the 35 per cent. and the huge board, that is more exaggeration. Mr. Baxter also made a stab in the dark when talking about a 35 per cent. increase in premiums. It is possible there will not be any increase at all for some time.

Hon. C. F. Baxter: You are optimistic. You do not know much about insurance companies.

The HONORARY MINISTER FOR AGRICULTURE: I do. I have gone into this thoroughly. The hon. member said he could not understand the Trades Hall viewpoint. I would like to remind him that this is the Government's point of view.

Hon. C. F. Baxter: A new combination!

The HONORARY MINISTER FOR AGRICULTURE: Not at all! It is the Government's point of view, based on the Royal Commission's findings. It is not intended that this board shall go over the heads of other inspectors. There will be co-ordination. I think that in asserting that one of the nominee members would have one outlook and the other member would have another, Sir Charles Latham was taking a very poor view of the mentality of these people. They would be appointed to do a job and would be good advisers to the chairman. I have found on marketing boards that the producers' representatives do not always take one point of view and the consumers' representatives another. I do not think they would, in this instance. Dr. Hislop said it would be desirable to pay a man £1,000 per annum to do the work expected of him, but other members suggested that it would be only a part-time job. I agree that it may be necessary to pay the nominees £1,000 per annum.

Hon. Sir Charles Latham: Why restrict the choice to the employers and the Trades Hall?

The HONORARY MINISTER FOR AGRICULTURE: I think it is desirable. I think the nominees would co-operate with the chairman. Dr. Hislop exaggerated tremendously as to costs and talked about three medical practitioners at £1,500 per year each. Would they expect to receive that fee for part-time work, while earning another £1,500 per annum elsewhere? I do not think the expenses would be so huge or that the board would run round on inspections to all the factories. The board's three functions would include a certain amount of inspection work, in conjunction with inspectors in the departments, and then the judicial and research capacities.

Hon. C. F. Baxter: Are we to cut the Bill down to that?

The HONORARY MINISTER FOR AGRICULTURE: I am speaking in general terms. They are not to be simply inspectors of machinery. Surely industry is worthy of a competent board capable of gaining and collating a great deal of valuable knowledge which would in the end be the means of saving a lot of money.

Hon. J. G. HISLOP: I must ask the Honorary Minister to withdraw his remarks about the medical profession. I am becoming tired of people attempting to put forward their petty political views by sneering at the profession.

The Honorary Minister for Agriculture: I did not sneer at anyone.

Hon. J. G. HISLOP: The sneer was obvious and intentional. The Honorary Minister said in effect that there would be no need to employ men full-time and that

perhaps members of the medical profession expected to receive £1,500 per annum for part-time work. He used the expression in a sneering manner in order to emphasise that the profession might try to take advantage of this measure. I asked him to withdraw his statement.

The HONORARY MINISTER FOR AGRICULTURE: I will certainly withdraw it, but I say emphatically that I had no intention of sneering at anyone or any profession. Dr. Hislop mentioned £1,500 per year for each of the medical practitioners.

Hon. J. G. Hislop: That was for full-time work.

The HONORARY MINISTER FOR AGRICULTURE: It is not suggested that they would be employed full-time. I asked did he mean £1,500 per year as salary for a part-time job, and I think Doctor Hislop is becoming thin-skinned if he took my remark as being offensive. I withdraw it, as it was never intended to offend.

Hon. C. F. BAXTER: The Honorary Minister seems to think all members come here without making any inquiries, just as the Government's representatives do. No indication has been given of the costs to be expected from this set-up, yet on a Bill of this nature the fullest information should have been provided. The board in Victoria costs about £15,000 per year and, as the activities of the board under this Bill will exceed those of the body in Victoria, even starting from a similar figure the costs of the board here will rapidly increase. The Honorary Minister said the premiums would be increased very little, if at all, but I have had figures taken out covering the past four months. They show that the total compensation paid under the present Act in the case of one company was, in that period, £2,450, whereas the total paid out under the provisions of this Bill would have been £3,452, a percentage increase of 32.

Hon. Sir CHARLES LATHAM: The Committee has been placed at a great disadvantage. The Royal Commission's report sets out the matter upon which the Bill has been framed, but no reasons for the report are submitted and there is nothing to indicate where the Commission got its information. Copies of the evidence have not been available to members and the Honorary Minister therefore cannot blame anyone for going outside in order to seek information.

The Honorary Minister for Agriculture: I do not blame you.

Hon. Sir CHARLES LATHAM: I am fearful of the added cost to industry. Over 30 years this State has been at a disadvantage compared with the Eastern States, owing to our higher costs.

The Chief Secretary: Including premiums for workers' compensation?

Hon. Sir CHARLES LATHAM: Two years ago it cost 8s. 4d. per head for premiums in Victoria and at that time our figure was 18s.

Hon. L. A. Logan: All the more reason for a change.

Hon. Sir CHARLES LATHAM: Our State can be built up only through industry and it is no use discouraging, by legislation, those who wish to invest their money in establishing new industries here. Recently potential investors have left this State because our costs are too high. I do not complain about the compensation proposed, though it is much higher than is provided in the other States.

The Honorary Minister for Agriculture: It has been lagging here.

Hon. Sir CHARLES LATHAM: For about 18 months, since the legislation was altered in the other States. I like the South Australian idea, where they are settling down to easier methods than we have here. I agree that we need a board to work out costs and figures that would obviate many claims for compensation, through building up a knowledge of safeguards, and so on. Although the measure does not say so, I understand a panel is to be submitted, and in that case the nominee from either the Trades Hall or the Employers' Federation might not be suitable.

Hon. G. Bennetts: Would they not have enough brains?

Hon. Sir CHARLES LATHAM: Some have more brains than others. I do not think the board proposed in the Bill could fulfil the functions laid down for it. The board should be one capable of doing all that is required of it. I have seen factories where men, working with emery stones, would not wear the goggles provided for in the regulations.

Hon. E. M. Heenan: They wear them in the mines.

Hon. Sir CHARLES LATHAM: I will tell the hon. member something about the mines.

The CHAIRMAN: I hope the hon. member will connect his remarks about goggles with the matter before the Committee.

Hon. Sir CHARLES LATHAM: Of course, it is not to be an inspectorial board that will go round seeing that the employees do wear goggles. At one stage the regulations laid down that men drilling in the mines should use sprays, but they would not do so.

Hon. W. R. Hall: They use water lines today.

The CHAIRMAN: Order! The hon. member will resume his seat. The question before the Chair is that the word "nominee" be struck out.

Hon. Sir CHARLES LATHAM: If we are restricted to that, the scope for discussion is limited. I am worried about the words that are to be inserted. If the board is to be worthwhile, let it be a permanent board.

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

Ayes	..	..	8
Noes	..	..	13
Majority against		..	5

AYES.

Hon. C. F. Baxter	Hon. W. J. Mann
Hon. L. Craig	Hon. G. W. Miles
Hon. H. Hearn	Hon. H. K. Watson
Hon. J. G. Hislop	Hon. Sir Chas. Latham (*Teller.*)

NOES.

Hon. G. Bennetts	Hon. L. A. Logan
Hon. H. A. C. Daffen	Hon. A. L. Loton
Hon. E. M. Davies	Hon. H. S. W. Parker
Hon. G. Fraser	Hon. C. H. Simpson
Hon. E. H. Gray	Hon. G. B. Wood
Hon. W. R. Hall	Hon. R. J. Boylen (*Teller.*)
Hon. E. M. Heenan	

Amendment thus negatived.

Hon. H. K. WATSON: I move an amendment—

That Subsection (6) of proposed new Section 33 be struck out.

I think the proposed constitution of the board or the manner in which its members are to be appointed is calculated to create anything but a really judicial atmosphere on the board. It will be found that the two nominee members will be trying to put it over each other and the chairman will put it over both of them. I think the choice of the three members should be the untramelled choice of the Government.

The HONORARY MINISTER FOR AGRICULTURE: The amendment is a weak one because if the subsection is struck out there is no proposal as to what shall be inserted in its place. I think the board will be quite a good one with these two nominee members.

Hon. H. Hearn: Mr. Watson suggested that it be left to the Government to appoint the nominees.

The HONORARY MINISTER FOR AGRICULTURE: If we vest that authority in the Government, it is leaving it wide open.

Hon. L. CRAIG: I support the amendment. I do not agree with the Honorary Minister that if the Government appoints the nominees it leaves the matter open. It will remain for the Governor to appoint somebody. What astounds me is that a political party should have the power to put forward a nominee. If it said that "the Australian Workers' Union shall appoint," there would be some reason in it. I think Mr. Watson is quite correct when he says there will be a wrangle between the two nominees. I can see all sorts of ramifications here. Should a political party desire to rid itself of an aspirant for, say, the Senate election, it might decide to appoint him to this board.

Hon. G. FRASER: Mr. Craig's objection to the Australian Labour Party being mentioned has been advanced because the hon. member does not understand the constitution of the A.L.P. No other body could be cited. I think the constitution of the board is the best that could be made, as who know better the workers' compensation legislation than a representative of the employers and a representative of the workers? If the subsection is struck out, I am in accord with the remarks by the Honorary Minister in that the Government will do exactly what this Bill says and will leave the position wide open. One of the problems today is the dissatisfaction felt over the decisions regarding injuries sustained by a worker. I think the board will overcome that difficulty because the members will concentrate

on the lessening and prevention of accidents in industry and will have a more scientific approach to the problem than we have today.

The CHIEF SECRETARY: The object of the Government is to select the two best persons available to act as members of the board. Why not? There is a vast difference of opinion between leaders of thought on the Government side and on the Labour side in the Assembly, and when a change of Government occurred, it could happen that both members could be appointed from the one side. Is it not better to settle for all time the policy of having particular representatives on the board and not subject to any change? Surely it is reasonable to appoint one representative from each side!

Hon. E. M. HEENAN: The Royal Commission recommended a representative of the insurers and a representative of the workers. Most workers are affiliated with the A.L.P.—

Hon. L. Craig: Not the real workers.

Hon. E. M. HEENAN: —and most of the insurers are affiliated with the Employers' Federation

Hon. Sir Charles Latham: They are not.

Hon. E. M. HEENAN: Then they ought to be. The board will be a very important tribunal and it is essential that all concerned should have the utmost confidence in it. I know of no bodies that could so fully represent the parties interested as those mentioned. Their nominees will be men able to make a real success of the board, to improve the conditions of injured workers and watch the interests of the people who pay the premiums.

Hon. C. H. SIMPSON: I have adopted the view that the board as suggested will really be a court. That is why I voted for a board having full-time members. The men selected will, in the course of years, acquire valuable knowledge and should devote the whole of their time to the job. I feel inclined to favour the amendment. For various tribunals, the best men available are selected, and the Government should be given a free hand to choose those best fitted to do the job, irrespective of political affiliations.

Hon. J. G. HISLOP: I do not like the proposed set-up of the board. This is an occasion when we should drop politics, even if we do not refrain from doing so at any other time. The board will be dealing with men who have been injured, and, if the appointments are made as suggested, there is a risk of setting up a chain of circumstances that will cause a psychological reaction to the board and its decisions. When men are sick, they are not normal and cannot think normally, and it is wrong to have a board appointed by political parties to adjudicate on the amount of compensation to be paid to injured workers. If I never issue a serious warning again, I do so now. I warn members that if they vote to put political parties on the board, they will live to regret it. I say that advisedly in the light of all the knowledge I have gained in my profession over a long period.

Hon. E. H. GRAY: I respect the opinions of Dr. Hislop, but I consider he is wrong in thinking that this is a matter of politics. Politics would not enter into it at all. Names would be submitted of men who had an intimate knowledge of industry and so it would be a matter of selecting the best men to give a fair deal all round. Once these representatives are appointed, they will have a seven-years tenure of office and will concentrate on watching the interests of employers, the insurers and the injured. Because the A.L.P. is the body that represents the unions, it must be mentioned in the Bill. This is a matter of business and of doing justice to the workers, and I think Dr. Hislop has approached it from the wrong angle.

Hon. G. FRASER: I should like to disabuse Dr. Hislop's mind about politics being involved. The fact that we are supporting the Government's proposal is an indication that we desire to get the best board. Were politics involved, we would be opposing the Government. If the appointments were not made as proposed, what Dr. Hislop fears would occur. The injured man would have confidence in a board as proposed because he would know that at least one member of it understood the business from his point of view.

Hon. L. Craig: And would lean his way.

Hon. G. FRASER: Not necessarily. Any man nominated by the A.L.P. would have a good industrial background and the injured worker would approach the board with confidence. It is perhaps unfortunate

that the organisation mentioned has to be the A.L.P., but it is the only body that could select a representative of the workers.

Hon. Sir Charles Latham: Why not the A.W.U.?

Hon. G. FRASER: That is representative of only a section of the workers.

Hon. Sir Charles Latham: The same thing applies to the Employers' Federation.

Hon. G. FRASER: The only alternative would be to appoint someone from the W.A. Council of Trade Unions. Perhaps that may not appeal to some members.

Hon. H. Hearn: It would not suit the Labour members.

Hon. G. FRASER: Nor would it suit the Employers' Federation.

The HONORARY MINISTER FOR AGRICULTURE: I am sorry the matter of party politics has crept into the discussion. There has never been a Bill before Parliament with less party politics in it than the present measure. It was passed unanimously in another place. I hope the amendment will be defeated. Mr. Fraser says that the A.L.P. would appoint an industrialist. Why not? He would be the obvious choice.

Hon. H. K. WATSON: It has been suggested that if the subsection be struck out, there is nothing to take its place, but nothing is required in its place. Subsection (2) provides that the board shall consist of three members who shall be appointed by the Governor. That ends the question. The only requirement is that the chairman shall be a legal practitioner of not less than seven years' standing. The Committee has agreed that the proposed board will virtually be a court and I suggest its members should be appointed in the same way as are the members of a court. They should be appointed by the Government, uninfluenced by any recommendation at all and not under pressure by any class or section.

Hon. R. J. BOYLEN: Two sections of the community must be safeguarded by the Bill, the insured and the insurer. The two subsections in question make adequate provision for the safeguarding of the interests of both parties. I oppose the amendment.

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

Ayes	10
Noes	11
Majority against	1

AYES.

Hon. C. F. Baxter	Hon. A. L. Loton
Hon. L. Craig	Hon. W. J. Mann
Hon. H. Hearn	Hon. C. H. Simpson
Hon. J. G. Hislop	Hon. H. K. Watson
Hon. Sir Chas. Latham	Hon. G. W. Miles (*Teller.*)

NOES.

Hon. R. J. Boylen	Hon. E. M. Heenan
Hon. H. A. C. Dalfen	Hon. L. A. Logan
Hon. E. M. Davies	Hon. H. S. W. Parker
Hon. G. Fraser	Hon. G. B. Wood
Hon. E. H. Gray	Hon. G. Bennetts (*Teller.*)
Hon. W. R. Hall	

Amendment thus negatived.

Hon. H. HEARN: I move an amendment—

That in lines 4 and 5 of Subsection (16) of proposed new Section 33 the words "but the chairman alone shall determine any questions of law and mixed law and fact" be struck out.

Nearly all contested cases are a mixture of law and fact. It has been suggested that this board should be on the same lines as the Arbitration Court. Should that be so, then the two lay members would have a say on questions of law as well as on questions of fact. We know that it is intended that the chairman shall be an outstanding legal authority, but it is quite possible he might turn out to be otherwise. There is nothing democratic in limiting the powers of the lay members of the board.

The HONORARY MINISTER FOR AGRICULTURE: I cannot understand the amendment, and I shall be disappointed if the Committee agrees to it. The chairman of the board will have the qualifications of a judge, but if the amendment is carried, the two lay members will be able to override his opinion on questions of law and fact.

Hon. H. Hearn: They can do it in the Arbitration Court.

The HONORARY MINISTER FOR AGRICULTURE: They should not be able to do so here.

Hon. L. CRAIG: I hope the Committee will agree to the amendment. Of course, the chairman would decide questions of law. I cannot imagine a question of law arising where the employers' and employees' representatives would join forces and oppose the

opinion of the chairman. To say that the chairman shall overrule the other members of the board is a mistake. Let the decisions be those of the board.

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

Ayes	11
Noes	10
Majority for	1

AYES.

Hon. C. F. Baxter	Hon. W. J. Mann
Hon. H. Hearn	Hon. G. W. Miles
Hon. J. G. Hislop	Hon. C. H. Simpson
Hon. Sir Chas. Latham	Hon. H. K. Watson
Hon. L. A. Logan	Hon. L. Craig (*Teller.*)
Hon. A. L. Loton	

NOES.

Hon. G. Bennetts	Hon. W. R. Hall
Hon. R. J. Boylen	Hon. E. M. Heenan
Hon. H. A. C. Daffen	Hon. H. S. W. Parker
Hon. G. Fraser	Hon. G. B. Wood
Hon. E. H. Gray	Hon. E. M. Davies (*Teller.*)

Amendment thus passed.

Hon. C. F. BAXTER: I move an amendment—

That paragraph (b) of Subsection (1) of proposed new Section 35 be struck out.

The fund mentioned in the proposed new section is to be provided by the insurers. It is unreasonable to ask them to pay for the liabilities of the employers who are dodging the law by not insuring their workers. Surely the redress should be against those people.

Hon. G. Fraser: Who would pay it?

Hon. C. F. BAXTER: It will come from industry.

Hon. L. Craig: Who would pay the costs of the prosecution?

Hon. C. F. BAXTER: That point arises in my next amendment. They will come from the board as well. The redress should be against the person who has flouted the law.

Hon. Sir Charles Latham: If he cannot pay, the taxpayer should.

Hon. C. F. BAXTER: Yes. It is unfair to ask the insurers to pay.

The HONORARY MINISTER FOR AGRICULTURE: I am sure the Committee will reject this amendment. If the paragraph were deleted, an injured worker could get no compensation from an employer who had not insured, and who was a man of straw.

Hon. H. Hearn: Should it not be a governmental charge?

The HONORARY MINISTER FOR AGRICULTURE: We laid it down previously that every man should insure for third party risk. This amendment is very dangerous.

Hon. Sir CHARLES LATHAM: There is a good deal of difference between this and third party insurance. In the latter case the money is more or less pooled, and people are compelled to insure because they cannot otherwise license their vehicles. Here the employer might become careless. Some do not even insure all their employees. We have a number of self-insurers.

Hon. L. Craig: They have to put up £5,000.

Hon. Sir CHARLES LATHAM: Yes, and they have to help find the money when cases occur of men not insuring their employees. That is unfair. This will allow the indifferent man not to insure.

Hon. L. Craig: But it is an offence.

Hon. Sir CHARLES LATHAM: Yes, but what is the penalty? There is none at all if the person concerned is a man of straw. In these cases, Consolidated Revenue should pay. Let the Crown take action against such an employer and not the insurers.

Hon. G. FRASER: I hope the amendment will be defeated. This is one of the vital provisions. The average worker assumes he is covered by workers' compensation insurance. He would not know until after an accident occurred that he was not covered. I would rather the insurers carried the responsibility than the individual. Prosecutions can be launched.

Hon. Sir Charles Latham: What is the penalty?

The Chief Secretary: It is £5 for each employee.

Hon. G. FRASER: I do not know, off hand, what it is. I am surprised at the hon. member moving an amendment to allow a worker to be thrown to the wolves, so far as his compensation is concerned.

Hon. H. HEARN: I disagree with Mr. Fraser and I do not think the amendment will mean throwing the workers to the wolves. Is it just and fair that employers

should have to pay for employees who default? Ever since the Bill has been discussed, we have been told that costs will not increase, but under these conditions there is an unknown liability which must of necessity be taken into account when premiums are fixed. I agree with Mr. Fraser that every worker who is injured should be paid an adequate scale of compensation, but the Bill makes no provision for any recoup for the employers.

The HONORARY MINISTER FOR AGRICULTURE: We incorporated a similar board in connection with third party insurance.

Hon. E. H. Gray: It is the same thing.

The HONORARY MINISTER FOR AGRICULTURE: Provision is made for the victim of a driver of an uninsured motor car to be paid for out of the fund, and this is the same thing. Why should a worker be the victim of a driver of an uninsured motor evasive employer who is too mean to insure? This is one amendment which I hope the Committee will not agree to.

Hon. E. M. HEENAN: A very important principle is involved and we must not revert to a situation which was a disgrace not so many years ago. I was in contact with a case where a man was killed on a mine which had been floated by one of those mushroom companies that make their appearance in the mining industry during a boom. The company did not have its employees covered by insurance and that man's widow has been unable to obtain any compensation. The fact that the employee is not insured does not automatically mean that the fund pays. It is only in cases where the employee is not insured and the employer is unable to pay compensation.

Hon. Sir Charles Latham: I said that he would have to be a man of straw or they would claim against him.

Hon. E. M. HEENAN: Employers should be made insurance-conscious and we can take it for granted that the board will police the compulsory insurance aspect of the Act. I do not think it will make heavy inroads on the fund and such inroads will gradually grow less because employers will be very chary about not insuring workers.

Hon. J. G. HISLOP: There is one thing we must ensure and that is that the injured worker receives his compensation. There are hardly any provisions in the Bill that are objected to as ideals and possibilities of the future for the protection of the worker, but I can see a growing fear in the minds of those who are associated with industry that it will become too costly. The Chief Secretary said that this board will really be a court and he instanced the fact that relief will be afforded courts which at present deal with workers' compensation cases. If that is so, industry will, to a certain extent, be relieved of legal expenses.

The retention of this provision is absolutely essential to the worker and yet it is regarded as indicating a possible increase in costs by those engaged in industry. Would it be possible for the Government to insert in this proposed new section a provision agreeing that for the first five years the State would pay for half the cost of the board and fix a sum beyond which it would not contribute? If that were done, I think almost all the amendments on the notice paper would be withdrawn, and industry would believe that there was a real desire on the part of the Government and a real belief by the Government that the board would not cost the amount suggested.

Hon. L. CRAIG: I am glad that this time I am able to support the Government. It would not be fair to allow a man to think he was covered by insurance and yet when injured not be able to receive any compensation. It is unlikely that the board would be called upon to pay the compensation because it would take jolly good care that it prosecuted an employer for not insuring his worker and thus get for the employee his full claim or make the employer bankrupt.

Hon. Sir Charles Latham: Making him bankrupt would not be a solution.

Hon. L. CRAIG: I do not think the provision is unreasonable.

Hon. Sir Charles Latham: Consolidated Revenue could provide the fund.

Hon. L. CRAIG: That would leave it in the air. If a man has a claim against him and somebody else could be called upon to pay, he would make sure that that person did the paying.

Hon. Sir CHARLES LATHAM: I do not like members getting the idea that anything I have said is an attempt to remove the responsibility of paying compensation to an injured worker. There is a big dif-

ference between third party insurance and workers' compensation because a person cannot get a license for a motor car without producing a receipt for third party insurance.

Hon. L. A. Logan: They use them without licenses.

Hon. SIR CHARLES LATHAM: But a man cannot get a petrol license unless his vehicle is covered by third party insurance, and I can assure the Committee there is more protection under third party insurance, as regards accident cases, than there is under this Bill. I tell Mr. Craig that some farmers have their total assets tied up.

Hon. L. Craig: Do you know of any farmer that has not an equity in his farm? I do not.

Hon. Sir CHARLES LATHAM: I regret to say that today I found out that there are some farmers who have no equity at all in their farms.

Hon. L. Craig: Have they employees?

Hon. Sir CHARLES LATHAM: Of course. They are protected because the bank insists upon their being insured—at least, I hope it does. There are people not under the bank who find themselves in that position. Mr. Craig may smile, but I will produce a letter showing him details regarding a man in that position.

Hon. L. Craig: Not under the bank?

Hon. Sir CHARLES LATHAM: I did not say he was under the bank. First of all, I referred to a man who was under the bank, but then proceeded to deal with another case. I know a man on a farm who has no bank advance.

The Chief Secretary: Has he any employees?

Hon. Sir CHARLES LATHAM: He has a man to assist him at seeding time and when harvesting.

Hon. E. M. Heenan: At any rate, he must be doing all right now.

Hon. Sir CHARLES LATHAM: Yes, but all farmers are not good business men. Some forget and might not insure their employee. I want to avoid people who are doing the job being saddled with those who are not doing it. Why not make it a charge against Consolidated Revenue?

The Honorary Minister for Agriculture: This Committee could not do that.

Hon. Sir CHARLES LATHAM: We could make a recommendation to another place. I am not opposed to a man being fully insured, but someone will have to pay. I would prefer the payment to be from Consolidated Revenue instead of the burden being added to those that are carrying out the strict letter of the law.

Hon. R. J. BOYLEN: No member of the Committee would like any employee to be deprived of his just compensation, and the deletion of the paragraph might have that effect. When the board is established, one of its duties will be to police the Act and, in the circumstances, very few employers will be able to evade their responsibilities. I oppose the amendment.

Amendment put and negatived.

Hon. C. F. BAXTER: I move an amendment—

That in lines 40 and 41 of Subsection (5) of proposed new Section 35 the words "a certified copy of the balance sheet for his or its last financial year, together with" be struck out.

No company makes out returns to the end of July. I know of no such company that issues a balance sheet in this State. The balance sheet compiled is an Australian balance sheet. We could not possibly secure the information sought unless we put the companies to the expense of providing a special balance sheet.

The HONORARY MINISTER FOR AGRICULTURE: This amendment has been sprung upon me and I do not know of any valid objection to it. I do not know what its effect would be, but I shall let it go.

Amendment put and passed.

Hon. H. HEARN: I move an amendment—

That at the end of paragraph (a) of Subsection (5) of proposed new Section 35, the following proviso be added:—"Provided that the returns to be furnished to the board by a self-insurer shall be those appertaining only to his insurance department."

What I propose is merely fair. There is no reason why a self-insurer should be required to send to the board a detailed balance sheet covering the whole of his business.

The CHAIRMAN: An amendment already carried covers this situation, and I do not think this amendment is necessary.

Hon. L. CRAIG: I do not know that you are quite correct, Mr. Chairman. Mr. Baxter's amendment referred to the amount of premium income received, and self-insurers do not receive any premium income. They set aside an amount that they regard as sufficient to cover insurances.

Hon. Sir Charles Latham: They really build up a reserve fund for that purpose.

Hon. L. CRAIG: I am chairman of a company that does its own insurance work and we charge ourselves the premium we would have to pay to an insurance company. If there are no claims and a reserve fund is built up, we charge ourselves a lesser amount. I think Mr. Hearn's amendment should be included.

Hon. H. HEARN: Many businesses deal with their own insurances and under the subsection they would be required to divulge the whole of their business. That should not be necessary at all.

The HONORARY MINISTER FOR AGRICULTURE: I have really no objection to the amendment although I think it is redundant. In my opinion, the position is already covered.

Hon. G. FRASER: I hope Mr. Hearn will not persevere with his amendment. If self-insurers do not pay anything, there is no necessity for a return.

Hon. L. Craig: There is always some charge made.

Hon. H. Hearn: And that is not the point.

Hon. G. FRASER: Mr. Hearn said that a man would require to divulge the details of his business as a whole. That is not so at all. The only details he would have to furnish in the return would be those in respect of insurance payments on employees. The addition of the proviso would make the provision in the Bill rather stupid. The position is already covered.

Hon. H. HEARN: Notwithstanding the suggestion that the amendment is redundant, I intend to persist with it because self-insurers deal with their insurance department in the same way as an ordinary insurance office. I want to make the position clear.

Hon. H. K. WATSON: I suggest that the proviso would be unnecessary. Subsection (3) deals with each insurer and says what he shall do. Subsection (4) sets out what the self-insurer shall do. It seems to me that Subsection (4) is the only one relating to self-insurers.

Amendment put and negatived.

Hon. H. K. WATSON: I move an amendment—

That in subparagraph (ii) of paragraph (b) of Subsection (2) of proposed new Section 36, after the word "summon" the words "such competent persons as it may deem fit in respect of any particular proceeding to sit with the board as assessors and also to summon" be inserted.

An earlier section indicates the varied cases the board will have to consider and the questions arising out of them. It occurs to me that if the board had power to call not merely a medical practitioner but any other experienced person in any particular industry on any particular case, that might be of assistance. The members of the board could not be expected to have a profound knowledge of every industry. Under this provision the board will not be bound to seek the assistance of an assessor, but it may do so if it desires.

The HONORARY MINISTER FOR AGRICULTURE: This is a superfluous amendment. The board already has power to call any witnesses it likes. There is no harm in the amendment, but we do not want to be made to look foolish by putting unnecessary provisions in a Bill.

Hon. H. K. Watson: I am not going to press it.

Amendment put and negatived.

Hon. H. HEARN: I move an amendment—

That paragraph (a) of Subsection (3) of proposed new Section 37 be struck out.

There is no necessity for this paragraph.

The HONORARY MINISTER FOR AGRICULTURE: This is very necessary indeed.

Hon. Sir Charles Latham: What does it mean?

The HONORARY MINISTER FOR AGRICULTURE: It means that the board can come to a decision on sound common sense and not on legal technicalities.

Hon. Sir CHARLES LATHAM: I have tried to reason out what this means. So far as I can see, it means that the board can have one opinion today and another tomorrow. I do not think the Minister knows what it means.

The Honorary Minister for Agriculture: Yes, I do.

Hon. Sir CHARLES LATHAM: If the Minister will explain it, I will probably support him.

The Honorary Minister for Agriculture: If you cannot understand it by reading it, how can I make you understand it?

Hon. Sir CHARLES LATHAM: I want to know the ultimate effect of this legislation. Will it not encourage appeals? The board may change its mind every day or every few hours.

Hon. G. Fraser: You do not want it to be elastic!

Hon. Sir CHARLES LATHAM: Yes, but I want it to be consistent in its elasticity. If not, where will we be if one goes to the board on a decision given yesterday and finds that it has been reversed the next day? Does not the Minister think this will cause appeals?

The Honorary Minister for Agriculture: No.

Hon. Sir CHARLES LATHAM: Well, I will accept the Minister's word.

Hon. H. HEARN: This provision is copied from the Arbitration Act, but I want the Committee to remember that in the court conciliation comes first and the legal side of arbitration follows. Again, in the Arbitration Court no lawyer is permitted to appear, but in this new court there will be cases in which lawyers must appear. In the Arbitration Court, an attempt is made to avoid all legal technicalities, and the President rightly frowns upon them. Parties are encouraged to appear before him without any technicalities. In workers' compensation cases, the terms of the Act must be paramount. The rules of evidence and the rules of court practice have been established for centuries in all British litigation. To break down that principle would be to risk doing real harm to both parties in almost every case. It would be a retrograde step in legal history. The object of the rules of evidence is to get the truth as distinct from hearsay. The rules of evidence have been formulated over long years of legal experience. We think that in this particular clause the Government is departing from an agelong tradition.

Hon. L. CRAIG: This is a dreadful provision. A short while ago we discussed the question of the chairman having full authority over the other members on all questions of law or mixed law and fact, but now we come to a provision which instructs him to take no notice of the law or the facts. I would like to submit this provision to a Supreme Court judge, as instructions to a court, and get his opinion on it. I hope the Committee will not agree to this provision.

Hon. G. FRASER: I hope the Committee will not throw the provision out as it gives the court power not to dismiss a case because of some small technicality. The suggestion has been advanced that it will make for more appeals, but I think if the provision is struck out that course will make for appeals to a greater extent. While the wording may be rambling, I think the purpose is well worth while as it gives the court power not to be swayed too much by the introduction of technicalities.

The HONORARY MINISTER FOR AGRICULTURE: The board is to function under the provisions of this measure. Then it must act according to equity and good conscience, and the substantial merits of the case, without regard to technicalities or legal forms. It shall not be bound by legal precedents for its own decisions or rulings in any other question. It may be a question similar, but not exactly the same as one dealt with earlier. The board may inform its mind on any matter in such a way as it regards as being just. The whole provision is wrapped up in safeguards.

Hon. J. G. HISLOP: From the wording of the Bill, one might agree that it is a dangerous provision, but let us view it in the light of experience under the Workers' Compensation Act. Often to put an injured worker or his relatives into the box in court proceedings is to hinder the full facts being brought to light. In one case I recall we went to court in order to prove that continuing for long in the painting industry was injurious to a worker. We lost our case—as the magistrate admitted afterwards—because he was looking for one

symptom of lead poisoning that he could not persuade the widow to make clear to him as being present in her late husband's illness. He had it in mind that one suffering from lead poisoning must be constipated and he could not get the widow to tell him that her husband had taken an aperient every night. I think this court will be neither a board nor a court as we know it under present terminology, but will be more like a court of inquiry. If questions of law should arise, an appeal is provided to fully established courts in which all the usual court procedure will be followed.

Hon. Sir Charles Latham: But this instructs such a court, also.

Hon. J. G. HISLOP: It is an instruction to the workers' compensation board, and nothing more. I think it would be well worthwhile our giving it a chance to succeed.

The HONORARY MINISTER FOR AGRICULTURE: The object of the board is to simplify procedure as much as possible, to assist the worker and save money to the industry.

Hon. Sir Charles Latham: Does the Honorary Minister regard the word "court" in line three as referring to the compensation court? Is it the court mentioned by Dr. Hislop, or a court of law?

Hon. E. H. GRAY: I support Dr. Hislop's views. Paragraph (c) is closely linked with paragraph (a). In many cases a layman, perhaps a union secretary or organiser, may be better able to put the case to the board providing technicalities and rules of court are not too prevalent. I would have expected the employers' representatives to support this provision which would cheapen procedure and give a layman an opportunity to present the case for an injured worker.

The CHIEF SECRETARY: The Workers' Compensation Act is now bound up with so many decisions that the position is made difficult, and courts are bound to follow the decisions of higher courts. Our courts follow decisions of the House of Lords, and so on. In the case of a man on a fishing boat in the North Sea, who had his hands frozen, the decision arrived at was that the injury arose in the course of the employment, whereas in the case of a man delivering bread, receiving change during the winter in Scotland and having his hands frozen, the decision was that the injury did not arise in the course of the employment. The idea here is that such precedents should not necessarily be followed but that the matter should be decided substantially on the merits of the case. There is provision for certain questions to be referred to other courts if the occasion demands.

Hon. Sir Charles Latham: Dr. Hislop said it was a workers' compensation board.

The CHIEF SECRETARY: It would be, in one sense.

Hon. Sir Charles Latham: They would be appealing to that court.

The CHIEF SECRETARY: I understood Dr. Hislop to agree that one of the board's main duties would be largely that of a court.

Hon. Sir Charles Latham: Not the court mentioned here.

Amendment put and negatived.

Hon. C. F. BAXTER: I move an amendment—

That paragraph (b) of Subsection (3) of proposed new Section 33 be struck out.

The meaning of this paragraph is very obscure and to me it would appear that the phrasing is bound to raise much confusion and argument.

The HONORARY MINISTER FOR AGRICULTURE: I oppose the amendment. It could possibly work unfairly to the worker. We know that there are cases where the diagnoses have proved wrong and if this paragraph is deleted, workers will not obtain compensation.

Hon. H. K. WATSON: I would not like this paragraph struck out because I have seen a number of cases where a worker has made a sincere claim for an injury but the medical examination proved that he had suffered an injury in respect of which he had not lodged a claim. If we accept this amendment, a worker in that position would have to withdraw his first claim and submit a fresh one. If it is found that the worker has received an injury as a result of an accident, then he should receive his compensation.

Amendment put and negatived.

Hon. J. G. HISLOP: I move an amendment—

That at the end of paragraph (a) of Subsection (7) of proposed new Section 37 the following subparagraph be added:—"(xv) the fees to be paid to a medical referee or to the members of a Medical Board in carrying out the provisions of this Act with power to vary such fees from time to time as the Board may think fit."

We have made a totally new departure in the conduct of the board which I hope will lead to a similar provision being included in the workers' compensation legislation throughout Australia. There will be varying degrees of time and work to be spent by the medical board. In order that it may call upon the best brains in the land, it should be able to say, "We will alter this accordingly because, in our opinion, such a case will demand greater time, care, skill and concentration, whereas other cases may require less." I am asking that the board be given the power to grant medical fees and to vary these fees from time to time as it thinks fit.

The HONORARY MINISTER FOR AGRICULTURE: This is a good amendment. I agree with it and I hope the Committee will pass it.

Amendment put and passed.

Hon. J. G. HISLOP: I move an amendment—

That in line 3 of paragraph (a) of Subsection (13) of proposed new Section 37 the words "and for that purpose" be struck out and the words "and to cause to be made a study of the causes, and the results of varying methods of treatment of such accidents and diseases, and to publish from time to time such findings and information as, in the opinion of the board, is in the interests of the proper administration of this Act, and for all or any of such purposes."

I want the board to have power to make research into conditions in industry with a view to lessening the expense of workers' compensation and the lowering of premiums. I consider also that the board should publish the results of its investigations into the causes of accidents. I can recall the concern expressed by the late Mr. Bennett, at that time manager of the State Insurance Office, over the length of time taken to return to industry men suffering from back injuries. He expressed the wish for authority to send someone abroad to study this particular phase. Since then tremendous strides have been made in the diagnosis of that injury but there are still matters arising regarding which the board should have authority to inquire into the causes and publish the results of its investigations.

The HONORARY MINISTER FOR AGRICULTURE: I see a lot of merit in this amendment. I hope the Committee will agree to it.

Hon. L. CRAIG: If we agree to amendments of this nature it will tend to build up a fund which will necessitate enormous contributions. Thousands of pounds could be spent in research and every penny has to be contributed by the insurers.

Hon. E. H. Gray: It would save money in the long run.

Hon. L. CRAIG: It is all very well to say that, but it will impose such a burden on industry that it will almost cripple it. There are already bodies inquiring into industrial diseases and accidents. If we allow the board to spend money on research it will permit it to go beyond its functions.

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

Ayes	13
Noes	8
Majority for ..	5

AYES.

Hon. G. Bennetts	Hon. J. G. Hislop
Hon. R. J. Boylen	Hon. L. A. Logan
Hon. H. A. C. Daffen	Hon. H. S. W. Parker
Hon. E. M. Davies	Hon. C. H. Simpson
Hon. G. Fraser	Hon. G. B. Wood
Hon. E. H. Gray	Hon. W. R. Hall (*Teller.*)
Hon. E. M. Heenan	

NOES.

Hon. C. F. Baxter	Hon. A. L. Loton
Hon. L. Craig	Hon. G. W. Miles
Hon. H. Hearn	Hon. H. K. Watson
Hon. Sir Chas. Latham	Hon. W. J. Mann (*Teller.*)

Amendment thus passed.

[*Hon. G. Fraser took the Chair.*]

Hon. J. G. HISLOP: I do not think it was intended that the number of doctors practising under the Act should be restricted or that the worker should be deprived of his choice of a doctor. It is essential that we should protect the right of resident medical practitioners to do this work. To make the position clear I move an amendment—

That after paragraph (c) of the proposed new Section 37 (13) the following proviso be added:—"Provided nevertheless that no medi-

cal practitioner registered under the Medical Act, 1894-1946, shall be omitted or removed from the register established and maintained by the board as aforesaid unless such medical practitioner has committed an offence against any of the provisions of this Act and in such case only for the period which the board may as hereinafter provided have ordered."

The HONORARY MINISTER FOR AGRICULTURE: I oppose the amendment. We do not know what offences may be committed under the Act and it is certainly doubtful whether the overcharging of fees would constitute an offence.

Hon. J. G. HISLOP: If we limit the number of doctors permitted to practise workers' compensation business and if we deprive the worker of his choice of doctor, we shall be on dangerous ground.

Hon. L. Craig: That can be done now.

Hon. J. G. HISLOP: There is no foundation for that statement. Every doctor is at liberty to practise compensation work.

Hon. L. Craig: But some have been excluded.

Hon. J. G. HISLOP: I am proposing that the board may exclude those who have committed an offence, but only for such period as the board may have ordered. The provision in the Bill would give the board power to limit the number of doctors practising workers' compensation and that cannot be tolerated. If the provision be passed, there will be a deputation from the medical profession protesting against the limitation and the possible introduction of a State national service. I thought it was merely by oversight that the provision had been included in the Bill. In a country district where there are two or more doctors, the work could be restricted to one man. What an extraordinary state of affairs that would be! It could lead to grave abuse. We should not lose sight of the fact that a worker has a certain amount of faith in his own doctor.

Hon. H. HEARN: I support the amendment. A vital principle is at stake. Every worker has the undoubted right to choose his own doctor and there should be no limitation of the number of medical men who may practise workers' compensation business.

Hon. E. M. HEENAN: I support the amendment. Any doctor should be permitted to practise his profession to the fullest extent. The board should not be empowered to compile a selected list of doctors and willy-nilly leave some off the list. I agree with Doctor Hislop that this might lead to grave abuse. If a doctor is convicted of an offence, his name should be removed from the list for the period ordered by the board, but apart from that, no tribunal of its own volition should be entitled to say who shall be on the list and who shall not.

Hon. E. M. DAVIES: I support the amendment, which is designed to obviate what was a bone of contention in the friendly societies' movement. It was always contended there that members should have the right to choose their own doctors and the same principle should apply under this measure. If a worker has faith in a particular doctor, he should have the right to employ him.

Amendment put and passed.

Hon. J. G. HISLOP: Paragraph (f) provides for the keeping of a register of medical practitioners authorised by the board to assess the degree of disability for the purpose of determining the compensation payable under the Second Schedule. Those doctors should be selected from a panel of names submitted by the local branch of the B.M.A. Without such advice, the board would not be in a position to determine the most suitable men to assist in this way. Therefore, I suggest that while I do not wish to limit the power of the board, its choice should be made from a panel presented to it by the Western Australian branch of the British Medical Association, which is the only body to advise. I move an amendment—

That in line 2 of paragraph (f) of Subsection (13) of proposed new Section 37 after the word "practitioners" the words "from a panel of names submitted by the Western Australian branch of the British Medical Association" be inserted.

The HONORARY MINISTER FOR AGRICULTURE: I do not oppose the amendment. The responsibility will be on the British Medical Association to furnish a suitable panel of names.

Hon. J. G. Hislop: Yes.

Amendment put and passed.

Hon. C. F. BAXTER: I move an amendment—

That subparagraph (i) of paragraph (g) of Subsection (13) of proposed new Section 37 be struck out.

This paragraph has no relation to workers' compensation. To provide the facilities mentioned would cost many thousands of

pounds, and if they are to be made available the Government should bear the expense.

Hon. E. H. Gray: The provision of the facilities would result in great saving to industry, especially to the employer.

Hon. C. F. BAXTER: I am afraid Mr. Gray might find that the provision would not be favourable to the worker.

The HONORARY MINISTER FOR AGRICULTURE: The paragraph is designed to save expense. I shall read to the Committee the advice given to me on this matter. It is—

> Industry is called upon to pay many thousands of pounds in compensation only because youths have undertaken heavy manual work for which they were physically and constitutionally unsuited. The inevitable result has been an early breakdown, the payment of compensation in the form of a substantial lump sum, the development of a neurosis and an inferiority complex, and ultimately an invalid pension for life. All that the board is required to do is to provide facilities for pre-employment examination and occupational guidance. It may take some time to educate the public to the advantages to be gained by using the facilities available, but the provision in the Bill is certainly a step in the right direction and the cost will be infinitesimal.

Hon. H. Hearn: Who gave that advice?

The HONORARY MINISTER FOR AGRICULTURE: Men are not accepted by the Army without a medical examination, as otherwise they might become a burden on the country. In the same way, men should be examined to determine their fitness for certain occupations.

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

Ayes	8
Noes	11
Majority against ..	3

AYES.

Hon. C. F. Baxter	Hon. A. L. Loton
Hon. L. Craig	Hon. C. H. Simpson
Hon. H. Hearn	Hon. H. K. Watson
Hon. Sir Chas. Latham	Hon. W. J. Mann (*Teller.*)

NOES.

Hon. R. J. Boylen	Hon. J. G. Hislop
Hon. H. A. C. Daffen	Hon. L. A. Logan
Hon. E. M. Davies	Hon. H. S. W. Parker
Hon. E. H. Gray	Hon. G. B. Wood
Hon. W. R. Hall	Hon. G. Bennetts (*Teller.*)
Hon. E. M. Heenan	

Amendment thus negatived.

Hon. H. K. WATSON: I move an amendment—

That subparagraphs (ii) of paragraph (g) of Subsection (13) of proposed new Section 37 be struck out.

These subparagraphs are simply evidence of a desire to give the board power to do almost anything except build battleships or make atomic bombs. Conceivably the board would have power to erect hospitals or even provide for a national medical service. I raise my protest.

Hon. J. G. HISLOP: The word "facilities" can be construed widely. It might mean complete and adequate medical treatment for workers, even the provision of another hospital of the dimensions of the Royal Perth Hospital. It might be cheaper to put workers in private hospitals at a cost of £6 6s. per week than allow the board to build its own hospitals. The Royal Perth Hospital, with roughly 600 beds, cost £1,500,000. A hospital with 50 beds might involve an expenditure of £50,000 or £100,000. I do not think that is contemplated. The word "facilities" is so wide as to mean anything. We have adequate medical and surgical treatment for the worker, provided use is made of the private hospitals that exist and which, in the future, will be built under any hospital-planning scheme.

Some people might consider it wise to have a separate hospital for workers' compensation cases, but the cost must be remembered. Adequate facilities for treating workers exist, but what is missing is hospital accommodation for them. The board might turn round and say, "We shall run our own hospital." It costs £6 6s. per week for a patient in a private hospital for the minimum accommodation, and at the Royal Perth Hospital it works out at something like 27s. a day, or approximately £10 a week. We are dealing with a new principle in providing a board, and we must ask ourselves whether all these new factors are necessary. I do not think this is.

The HONORARY MINISTER FOR AGRICULTURE: I am surprised at Dr. Hislop opposing this subparagraph. I thought he would support the provision for the board to provide these facilities. The subparagraph does not visualise the setting up of new hospitals, but the pro-

vision of certain facilities in existing hospitals. I think Dr. Hislop takes an exaggerated view. I hope the amendment will not be agreed to.

Hon. J. G. Hislop: How can the board provide facilities in hospitals over which it has no control?

The HONORARY MINISTER FOR AGRICULTURE: I would not say it could force anyone into a hospital that was full up. I think the word "providing" means paying for certain facilities in existing hospitals.

Hon. J. G. HISLOP: Will the Minister deny that some few years ago the State Insurance Office considered buying a block of land in the city on which to build its own hospital?

The Honorary Minister for Agriculture: But it did not do so.

Hon. J. G. HISLOP: It did not have the power, but it will under this provision. I have no desire to see the whole of the subparagraph struck out, but I would like the word "facilities" defined or limited. As the subparagraph stands, I am bound to oppose it. It would be reasonable to hold this over until we can find out what is meant by the word "facilities."

Progress reported.

House adjourned at 11.52 p.m.

Legislative Assembly.

Tuesday, 9th November, 1948.

CONTENTS.

	Page.
Privilege, as to member for Canning and further Court subpoena	2210
Questions: Bunbury Harbour, as to commencement of improvements	2211
Powdered milk, as to shortage of supplies	2211
Bills: Land Act Amendment, 1r.	2211
The Public Library, Museum and Art Gallery of Western Australia and Disposal of Public Documents, 1r.	2212
Electricity Act Amendment, 1r.	2212
Friendly Societies Act Amendment, 3r., passed	2212
Nurses Registration Act Amendment, 2r.	2212
Wheat Pool Act Amendment, 2r., point of order, Com.	2216
Annual Estimates: Com. of Supply, general debate	2236

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

PRIVILEGE.

As to Member for Canning and Further Court Subpoena.

MR. YATES (Canning) [4.32]: I rise on a matter of privilege. Some weeks ago I received a subpoena to attend the local court and produce a document that I had discussed in this House. The House directed me not to produce the document in court. I attended the court proceedings and subsequently received a subpoena to attend the Perth Police Court on Tuesday, the 16th November to produce the document in question. I desire to know whether or not the House will grant leave to me for that purpose.

Hon. A. H. Panton: Are you asking for leave?

Mr. YATES: I am asking for leave.

MR. WILD (Swan) [4.35]: In view of what has been said by the member for Canning, I move—

That this House declines to grant leave of absence to the member for Canning (Mr. Yates) to attend the Perth Police Court on Tuesday, the 16th November, on the ground of Parliamentary privilege.