Legislative Council

Tuesday, the 14th November, 1967

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

CHIROPODISTS ACT AMENDMENT BILL

Introduction and First Reading

Bill introduced, on motion by The Hon. G. C. MacKinnon (Minister for Health), and read a first time.

QUESTION ON NOTICE

WOKALUP RESEARCH STATION

Artificial Insemination of Dairy Cows

The Hon. J. DOLAN asked the Minister for Health:

(1) (a) Is it a fact that the artificial insemination centre at the Wokalup Research Station is to use semen imported from the Eastern States in the near future on all herds that use artificial insemination?

(b) If so, what are the reasons for the change?

(2) (a) Has the Department of Agriculture bought any proven sire for use at Wokalup?

(b) If so, when and at what price?

(3) If there is a change of policy imminent is it because many dairymen are dissatisfied with the offspring resulting from artificial insemination with the semen from the bulls at Wokalup Research Station?

(4) If there is a change, what will be the cost per service, and what conditions of return service will be imposed compared with the present cost and conditions?

The Hon. G. C. MacKINNON replied:

(1) (a) Yes.

(b) The development of liquid nitrogen storage and transport techniques for deep frozen semen has made it practical to obtain semen from nominated proven sires in the Eastern States.

(2) (a) No. Proven bulls have not been available for purchase. Bulls used at Wokalup have been purchased on the basis of the performance of their ancestors.

(b) Answered by (2) (a).

(3) No. The proposed changeover, made possible by the development of the liquid nitrogen procedure, is a logical development of the policy enunciated when the service was first established in Western Australia.

(4) No changes in cost or conditions are contemplated.

WORKERS' COMPENSATION ACT AMENDMENT BILL

Second Reading

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Mines) [4.39 p.m.]: I move—

That the Bill be now read a second time.

Clause 11 of the first schedule to the Workers Compensation Act states that—

> When the Board orders redemption as provided for in Clause 10 of this Schedule—
>
> (i) In the case of permanent total incapacity the lump sum shall be the sum ascertained by deducting the total amount received by the worker as weekly payments from the maximum sum of $7,000.

This expression in terms of decimal currency was inserted under the provisions of section 4 of the Decimal Currency Act, 1965.

However, last year clause 1 of the first schedule was amended to increase the compensation payable for permanent total incapacity to $10,000. A complementary amendment should therefore have been made in clause 11 of the schedule also but, for some reason or another, this was inadvertently overlooked.

The simple purpose of this Bill, therefore, is to amend clause 11 of the first schedule to the Act by substituting for the word "seven," as appearing in paragraph (i) of the clause, the word "ten."

The Minister for Labour, when introducing this measure in another place, stated that he had been assured that, up to date, nobody has been disadvantaged in any way because of the omission of this amendment from last year's legislation. Although nobody has been disadvantaged in the past or suffered any financial disability because of this omission, it is well, I suggest, that we ensure there will be no difficulty in the future.

Therefore, to make doubly sure in these regards, I desire to foreshadow a simple amendment which it is my intention to introduce and which will result in the provision contained in this Bill having the effect it would have had were it passed last year.

It is suggested it is better to tidy it up at this point of time than to run any risk at all in the matter of continuity of provisions not inserted in their entirety through the passing of last year's amending Act. I commend the Bill to the House.

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

CHIROPODISTS ACT AMENDMENT BILL

Second Reading

THE HON. G. C. MacKINNON (Lower West—Minister for Health) [4.42 p.m.]: I move—

That the Bill be now read a second time.

This Bill seeks to amend the legislation which was first passed in 1957. The original Bill was presented to Parliament by a private member. Since then, it has proved to be a useful piece of legislation.

A few months ago, the Chiropodists Registration Board took legal action against an individual who was practising chiropody without being registered. The case raised a number of points, both legal and otherwise. This focused attention on the desirability for several changes and improvements, which are contained in the Bill now presented.

The original definition of "chiropody," in section 3 of the Act, was framed in a manner that left a great deal of room for uncertainty. It defines chiropody in fairly clear terms, but goes on to provide two additional avenues through which this definition could be expanded or varied. Firstly, it includes the words "or by any other methods as may be proclaimed." There appears to be no need for this expression and its existence clouds the meaning of the definition. It is, therefore, proposed by this Bill to delete these words.

Similar remarks could be made in relation to a further passage included in this definition. I refer to the words "and are included in the curriculum laid down in the rules made under the Act." It would follow that any change in the course of training would automatically vary the meaning of "chiropody." The Bill proposes that this passage also be deleted.

As a consequence of the points which have been mentioned, it would also be necessary to remove the definition "proclaimed method," which also appears in section 3 of the Act.

Section 8 of the Act sets out the various matters in relation to which the board is empowered to make rules. The final paragraph (g) of subsection (1) reads "for any other matter which the Governor may declare to be a matter in respect of which rules may be made by the board under this section."

This subsection provides a means of expanding the scope of the powers exercised by the board, without reference to Parliament. This is a dangerous principle and the Bill provides for the paragraph mentioned to be deleted.

Section 10 of the Act sets out conditions which must be met by an applicant who seeks registration. Paragraph (b), as it stands, has some unsatisfactory features and is not along the same lines as the corresponding provision in Acts which have similar purposes in relation to other professions. This particular provision is commonly referred to as the grandfather clause and relates to people who were earning their livelihood in this particular profession at the time the Act was introduced, but who did not hold formal qualifications.

The paragraph applies two tests which are unusual. Firstly, the applicant is required to satisfy the board that he was *bona fide* engaged in the practice of chiropody. The difficulty here is that the board could make it impossible for a person to qualify, simply by declaring that it was not satisfied. The paragraph also requires an applicant to prove competence. This is an unusual requirement in a grandfather clause. The Act and the rules also fail to specify the standard against which competence must be proved. In such circumstances, it would be very easy for the board to exclude a great number of applicants. The intention of any Act of this kind is to preserve the right of persons who were engaged in the profession before the law was introduced to follow that profession in the future.

A further point relating to this same paragraph is that it requires applicants to have practised chiropody for 24 months out of the period of three years immediately preceding the commencement of the Act. It is usual, in Acts of this kind, to allow the period of practice to fall within a period of five years preceding the commencement of the Act.

The effect of paragraphs (a), (b), and (c) of clause 4 of the Bill is, therefore, to reframe paragraph (b) of section 10 of the Act to read "he was *bona fide* engaged in the practice of chiropody in the State for at least 24 months during the period of five years immediately preceding the commencement of this Act."

Clause 4 also seeks to add a subsection (2) to section 10 of the Act. The purpose is to establish a right of appeal to a court of petty sessions whenever the board refuses to register an applicant, or removes the name of a chiropodist from the register. This would also apply where the board refused to restore the name of a person to the register in any case where the name had been removed and also where the board refused, or cancelled, a license to practise. Appeals under this provision would have to be made within three months of the board's decision.

Clause 5 of the Bill provides for the repeal of section 14 of the Act. This follows naturally on the deletion of the interpretation "proclaimed method."

Earlier I made reference to certain court action taken by the board. It was argued during these proceedings that there had been uncertainty as to the validity of the board as first appointed and that the Act was defective in making provision for these matters. Clause 6 of the Bill pro-

vides that all appointments of members of the board, since the 4th January, 1960, be ratified and validated.

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

BILLS (2): RECEIPT AND FIRST READING

1. Education Act Amendment Bill (No. 2).
2. Stamp Act Amendment Bill.

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

STATE FORESTS

Revocation of Dedication: Assembly's Resolution

Debate resumed, from the 9th November, on the following motion by The Hon. L. A. Logan (Minister for Local Government):—

That the proposal for the partial revocation of State Forests Nos. 22, 38, 64, and 65 be carried out.

THE HON. F. J. S. WISE (North) [4.50 p.m.]: There is not any doubt that the requirements of the Forests Act are completely met in the presentation of this motion for revocation of four areas. This will perhaps be one of the smallest groups of areas for which revocation is sought to be presented to Parliament for a long time. In this instance, with the exception of one, small areas are affected.

The first area deals with 12½ acres in the Karragullen Townsite. The second area is at Denmark and deals with 26 acres. The third deals with 441 acres; and the fourth, only 10 acres.

My attention has been drawn to a typographical error that appears in the notes of the speech made by the Minister where the No. 2 area is referred to as being north-east of Denmark whereas on the plans it is shown as being north-west.

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

The Hon. F. J. S. WISE: The area of 441 acres appears to be a substantial one, but it is of very little use, or potential use, to the Forests Department. It is interesting to note that instead of releasing it for any other form of use by the public, it is to be added to a national park.

Having examined the plans, I am quite confident that everything is in order and I support the resolution.

THE HON. V. J. FERRY (South-West) [4.53 p.m.]: I support the resolution. As the previous speaker has said, the parcels of land affected by this resolution are very small in number, there being only four parcels in all.

I agree that dedicated State forest land is very dear to us as Western Australians and it is only with the utmost seriousness that we forgo this type of land. We are dependent upon timber for one of our main primary industries; and I am quite sure that timber will, for many years to come, continue to play a vital and strong part in our economy and in the welfare of the people of this State, just as it has done in the past. Perhaps in the future timber may become even more important than it has been in the past.

When I say that I bear in mind the moves that are being made at this point of time to negotiate for the possible establishment of a chip wood industry, which we hope will lead to a paper pulp industry being established in the south-west of this State. For this reason we are largely dependent upon State forest lands on which the timber is grown.

We are richly endowed with natural resources of some famous hardwoods; and it is our duty, as it is of the Minister through the Forests Department, to see that the dedication of State forests will endure. It is also our duty to see that we are supplied with an increasing amount of timber of all descriptions. When I say "all descriptions" I mean all kinds of timber that can be used commercially. In addition to our hardwoods, we must see that the Forests Department develops other types of timber, not only pines, but also other eucalypts, for the ultimate extension of our timber industry—and there are areas set aside in our State forest country for this purpose.

I notice that area No. 4, as described in this resolution, deals with 10 acres to the east of the Manjimup Townsite. Although this area contains marketable timber, it is now decided that it will be relinquished and used for civic purposes as a cemetery site. I believe that this decision was not made lightly. As this area is carrying marketable timber of quite good quality, it is natural we should not pass it over for a purpose other than timber without due consideration first being given. I am grateful that the Forests Department and the local authorities adopted a very co-operative attitude in their negotiations; and I am particularly pleased in this instance the Forests Department has seen fit to make the land available, subject to the concurrence of Parliament.

I am aware that the Manjimup Shire Council has experienced considerable difficulty in obtaining a suitable site for a new public cemetery; and I feel the relinquishment of State forest country has not been without some bargaining. Bargaining is good, provided it is done in a friendly spirit; and I believe in this particular instance it may have been done in quite a friendly spirit of co-operation.

The Forests Department in this State is charged with a grave responsibility and in its sphere of activities it recognises the needs of local governing authorities. So we have this land, although it may contain

marketable timber, being made available for the specific purpose which I have mentioned.

We may well find that the State forest area will extend in the future. Although there is something of the order of 4,500,000 acres of dedicated State forest—it is a little short of that figure—there is a variation of the figure from year to year, because of the extension of some areas and the excision of others. However, our timber industry must expand and, for this reason, the Forests Department will probably negotiate with private landowners for suitable land on which to introduce new species. This will further our long-term approach for the establishment of a successful paper pulp industry in the south-west.

I agree that, from time to time, the Forests Department should recommend to Parliament the release of further dedicated areas of State forests, but this will only be done when the department is unable to see its way clear to grow timber profitably in commercial quantities on this land. When the land is released for other purposes, it could well mean additional land for agricultural pursuits. There is a tremendous demand from landowners in the south-west to increase their rural holdings; and while we have the activities of the Forests Department and agricultural and horticultural pursuits side by side at times this breeds dissension. However, this is a situation in which all parties have to co-operate and I am grateful to think that in this day and age reason undoubtedly prevails. This is something that will be with us for many years to come, because rural properties will continue to be adjacent to forest lands in our south-west.

I wish to close by paying tribute—as I have done on other occasions—to the work being done by the officers of our Forests Department in the promotion and preservation of our State forests, and I look forward to greater things happening in the future in regard to our timber industry. I support the resolution.

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

COUNTRY TOWNS SEWERAGE ACT AMENDMENT BILL

Second Reading

Debate resumed from the 9th November.

THE HON. R. H. C. STUBBS (South-East) [5 p.m.]: This Bill will amend the Country Towns Sewerage Act, 1947-1965, and will make provision for an increase in the maximum general rate, in certain cases. To make this provision it is necessary to amend section 11 by adding a new subsection (1a). Amongst other things, this provision will permit local authorities, in certain instances, to levy a general rate beyond the limit prescribed by the Local Government Act.

During his second reading speech, the Minister said—

> Further, the Government has not been able to keep pace with the development of those towns where sewerage schemes have been started.
>
> It is conceded this is not a satisfactory state of affairs from any point of view. Consequently, in an endeavour to tap all the loan resources available to the State, the Government has decided to encourage local authorities to construct and to operate sewerage schemes in sizable towns under their control.
>
> The three basic reasons supporting this policy are—
>
> > Firstly, the desire of the Government to avail itself of all loan resources permissible.
> >
> > Secondly, to encourage local authorities to accept an even larger degree of responsibility for improvement of services and, consequently, living conditions in the towns within their boundaries.
> >
> > And, thirdly, sewerage schemes, being confined in their operation to comparatively small areas, lend themselves to operation by local authorities directly concerned.

At this stage I wish to advise the House that we on this side agree with the Bill, and we think it is a very good measure. Local authorities have shown more responsibility in latter years in providing better living conditions in country towns. The shire councils and town councils are becoming more and more aware of the necessities of life. Local authorities now provide houses of a good standard and also help in the provision of drive-in theatres, bowling greens, doctors and dentists' surgeries—and guarantee certain incomes to doctors and dentists when they practise in the towns. Local authorities have found it necessary to accept the responsibility of attracting doctors and dentists, and getting them to stay in their towns.

The provisions of this Bill will assist local authorities to participate in sewerage schemes, where necessary and desirable. While carrying out research on this Bill, I read the speech which the then Honorary Minister for Agriculture made in this House on the 23rd November, 1948, when speaking to the Country Towns Sewerage Bill. He stated as follows:—

> Members will agree with me that the time has arrived when, in a State such as ours, sewerage facilities should be installed wherever possible. The system prevailing in some of our country towns at present is nothing but a relic of the Dark Ages and the sooner we do something to remedy it, the better. That is what the Bill seeks to do.

We certainly have graduated from the old primitive and disgusting pan system, through to the septic tank system, and now to the sewerage system, which is a wonderful improvement. All of this has come about, of course, through the provision of adequate water supplies. For many years not many towns had the water to spare, but with the provision of the comprehensive water supply, and the country agricultural water supply, many towns have obtained water supplies in recent years. Also, some towns have a good catchment area and have been able to impound water, which has made living conditions in country districts much more pleasant through the provision of sewerage facilities.

In 1948 Kalgoorlie had a sewerage scheme; Northam had a scheme which was partly constructed; and this was the case in two other country towns. Since the advent of adequate water supplies, it is interesting to note the towns which have installed sewerage schemes. With your permission, Mr. President, I will name them. They are as follows: Albany, Bunbury, Collie, Corrigin, Denmark, Geraldton, Gnowangerup, Katanning, Kellerberrin, Kojonup, Merredin, Mt. Barker, Narrogin, Northam, Pingelly, Three Spring, Wagin, Wundowie, Wyalkatchem, Wongan Hills, Exmouth, Port Hedland, Tom Price, Goldsworthy, Koolyanobbing, Kalgoorlie, and Manjimup. All of the last five schemes are conducted by the local authorities concerned.

Another up and coming town which, I am sure, will soon require a sewerage scheme is Kambalda. That town is growing rapidly and septic tanks are being installed. However, the ground does not lend itself to septic systems and I feel that the provision of a sewerage scheme will be a must in that town very soon.

An interesting feature of the scheme which operates at Manjimup—about which Mr. Ferry probably knows—is that a system was introduced which is known as the "lagoon system." It is a method which was tried out in South Dakota in 1948, and has proved to be successful. The lagoons are constructed so that the sunlight kills all the germs and makes the effluent pure enough to be used for watering purposes for playing fields.

In Kalgoorlie the effluent is used for irrigation to grow lucerne for dairy cattle. During the August round the racehorses also eat quite a bit of that lucerne, and I think the poultry industry in that area also depends on it. The same method is to be used at Kurrawang. The water, which is used in the toilets and for the washing of clothes, and bathing, is collected and, after lagooning, it is irrigated onto a well-developed orchard. A similar situation exists at Merredin where the oval is grassed and watered from the effluent which is lagooned with the use of a similar method.

The point is that by being able to use this effluent, small country towns will be able to grass ovals and playing fields. Not only will they have the benefit of sewerage schemes, but also the benefit of beautiful playing areas. The grass certainly does grow profusely where effluent is used. Certain safety measures are necessary and, when the water has been pumped from the lagoons, it is treated with chlorine which kills any pathogens which might be present. People are barred from using the sports areas within a day of the irrigation process.

I just mention this in passing, but the point is country towns will be able to use this method of watering and minimise their problems, especially where water is scarce. In short, we can see a lot of merit in this measure, and we agree with it entirely.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

Third Reading

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

LICENSING ACT AMENDMENT BILL

Assembly's Amendments

Amendments made by the Assembly now considered.

In Committee

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

The DEPUTY CHAIRMAN: The amendments made by the Assembly are as follows:—

No. 1.

Clause 4, page 2, line 31—Delete all the words after the word "amended" to the end of the clause.

No. 2.

Clause 4, page 2, line 31—Add after the word "amended" the following passage:—

(a) by inserting after the word "waters" in line four of subsection (3) the word "cordials";

(b) by substituting for the words "and tobacco" in line five of subsection (3) the words "tobacco and matches";

(c) by adding immediately after the word, "sale", being the last word in subsection (3), the passage, ", except in conformity with a permit granted under section thirty-three A of this Act";

(d) by adding, immediately after the word, "compartments", in lines seven and eight of subsection (6), the passage, ", unless pursuant to a permit granted under section thirty-three A of this Act";

(e) by adding, immediately after the word, "tobacco", in line eight of subsection (7), the words, "or except in conformity with a permit granted under section thirty-three A of this Act"; and

(f) by repealing subsection (10) and re-enacting it, as follows:—

(10) The provisions of subsection (1) of section one hundred and eighteen of this Act, relating to the supply of liquor by license holders, apply, with such adaptations as are necessary, to the supply of wine by the holder of an Australian wine license. .

No. 3.

New Clauses.

To insert after clause 4 new clauses to stand as clauses 5 and 6 as follows:—

S. 33A added.

5. The principal Act is amended by adding, after section thirty-three, the following section—

Light meals on premises subject of Australian wine license.

33A. (1) Upon the application of the holder of an Australian wine license, the Court may, in its absolute discretion and subject to such conditions as it may, in a particular case, see fit to impose, grant to the licensee a permit to serve light meals of a kind, and on a part of the licensed premises, in each case approved by the Court and specified in the permit.

(2) The provisions of paragraphs (a) and (b) of subsection (1) of section forty-eight of this Act apply to applications for a permit under this section.

(3) The Court may sit to hear an application for a permit under this section at any time or times that the Chairman appoints.

(4) The Court shall not grant a permit pursuant to this section, unless it is satisfied that—

(a) the part of the licensed premises in respect of which the permit is sought is suitable for the purpose;

(b) there are, on the licensed premises, all necessary and proper facilities for the preparation and service of light meals of the kind for which the permit is sought; and

(c) there is a reasonable need, in the locality, for the service of the kind for which the permit is sought.

(5) A permit granted under this section shall, unless sooner revoked, remain in force until the end of the period in respect of which the license was granted and the Court may upon the application of the licensee renew the permit if and when renewing the license.

(6) The fee for the issue and for the renewal of a permit under this section is four dollars.

(7) A permit granted pursuant to this section does not authorise the licensee to have or keep his licensed premises open to the public at any time before or after that during which wine may be lawfully sold on the premises.

(8) A person who contravenes any condition to which the granting of a permit is subject or who serves light

meals contrary to any specification in a permit commits an offence and the Court may, without affecting the penalty to which a person is liable under this subsection, revoke the permit.

Penalty: For a first offence, one hundred dollars, and, for any subsequent offence, two hundred dollars.

S. 44D amended.

6. Section forty-four D of the principal Act is amended by adding, after subsection (2) the following subsections—

(3) Notwithstanding the provisions of the proviso to subsection (1) of this section, if the Court, after due inquiry, is satisfied that, by reason of the operations of the company on behalf of which the application is made, it is unreasonable or impracticable to require the premises in respect of which a canteen license is sought to be situate in conformity with that proviso, then, the Court may, subject to the other provisions of this Act relating to canteen licenses, grant a canteen license in respect of premises that are situate within twenty miles of premises the subject of a publican's general license or a wayside house license.

(4) Subsection (3) of this section shall continue in operation until the thirty-first of December, nineteen hundred and sixty-nine and no longer; and every canteen license granted by reason only of the operation of that subsection shall, after that date, cease to have effect.

No. 4.

New clause.

To insert after clause 8 a new clause 9 as follows:—

S. 51A amended.

9. Section fifty-one A of the principal Act is amended by adding, after subsection (2), the following subsection—

(2a) Where an order has been made under subsection (1) of this section against an owner who is the vendor of the licensed premises under a contract of sale, if that owner is not in possession pursuant to any right of re-entry under the contract and has carried out the work, the sale price of the premises under the contract is, by operation of this section, increased by the total amount properly expended by the vendor in carrying out the work and the contract is deemed to be varied accordingly.

The Hon. A. F. GRIFFITH: These amendments which have been made by another place follow the usual pattern of amendments that have been made in the past to the Licensing Act, because there is no doubt it is difficult to satisfy everybody. Members will recall that the Government desired to permit the Licensing Court to grant a restaurant license to a wine saloon if an application was made by the wine saloon proprietor. This seemed to be quite in order, but my attention was drawn to the fact that the provisions did not appear to meet the situation in the interests of the local wine growers, and it was decided to go a little further with the provision. As a result these amendments were moved in another place and I ask the Committee to agree to them. I take it, Mr. Deputy Chairman, you will deal with the amendments in order?

The DEPUTY CHAIRMAN (The Hon. F. D. Willmott): I think that will be the most advisable course, because it will permit any member to speak on each amendment as it is brought forward.

The Hon. A. F. GRIFFITH: Very well, Mr. Deputy Chairman. Amendment No. 1 seeks to permit the sale of tobacco and matches in a wine saloon. If members refer to the Act they will see that a wine saloon keeper at present does not have the right to sell matches, although he is permitted to sell other articles in addition to wine. The amendment will tidy up the provision. I move—

That amendment No. 1 made by the Assembly be agreed to.

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

The Hon. A. F. GRIFFITH: Similarly, when the Bill was before another place the question of cordials was discussed, and it is now proposed, with amendment No. 2, to insert the word "cordials" after the word "waters" in line four of subsection (3) of section 33 of the Act. This amendment also seeks to include the word "matches" in the subsection; provision already being made for tobacco.

The amendment also seeks, with paragraph (c), to add at the end of subsection (3) the words, "except in conformity with a permit granted under section thirty-

three A of this Act." As already mentioned, this subsection sets out those goods a wine saloon keeper can sell in addition to wine. I move—

That amendment No. 2 made by the Assembly be agreed to.

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

The Hon. A. F. GRIFFITH: Amendment No. 3 covers the point I first referred to a few moments ago. It seeks to go further than merely granting the court the right to grant a restaurant license to a wine saloon keeper. In other words, by the insertion of proposed new section 33A the court may, in its absolute discretion, grant the holder of an Australian wine license a permit to serve light meals on part of his licensed premises.

I make it perfectly clear that we leave the discretion with the court. It must not be thought that, for the mere asking, a holder of an Australian wine license will obtain a permit of this nature. The court may be of the opinion that the premises are unsuitable, but if they are suitable the court may, at its discretion, extend the permit.

It will be noticed that the court may hear an application at the time decided upon by the chairman, and the permit can be revoked. It is provided that it is an annual permit to be applied for by the license holder in the first place, and it must be renewed every 12 months. The amendment is a move in the right direction, and I move—

That amendment No. 3 made by the Assembly be agreed to.

The Hon. H. R. ROBINSON: I take it, Mr. Deputy Chairman, we are dealing only with new clause 5 in this amendment?

The DEPUTY CHAIRMAN (The Hon. F. D. Willmott): We are dealing with the whole amendment.

The Hon. A. F. GRIFFITH: The honourable member wishes to speak to new clause 6 as set out in the amendment and I have no desire to deprive him of that opportunity.

The Hon. H. R. ROBINSON: I agree with the principle contained in new clause 6, but I believe it goes too far, and I propose to move an amendment to it. It is appreciated that the provision of the best amenities for the people in the north is justified, and one of the essentials is the granting of a canteen permit. It is intended that these permits shall only be a temporary measure to cover the needs of a work force assembled in the north for a certain project. I agree with the proviso in section 44D that no canteen license shall be granted to those premises within 20 miles of a hotel, and I also agree with the purpose of the amendment which seeks to grant exemption from the provision in places such as Mt. Newman where, to reach the campsite, one has to travel three and a quarter miles by water or 17 miles across the causeway.

In other locations, however, where decent hotels are constructed, I do not think a canteen permit should be granted. I have in mind licensed premises such as the motel at Port Hedland, on which thousands of dollars have been spent to provide all the facilities of a modern hotel. There is another one situated at Dampier. Surely this type of hotel in the north-west should be encouraged, rather than the type the north-west has been used to in the past, such as at Nullagine and Marble Bar. Hotels such as those served their purpose in the past, but the present-day traveller and tourist expect something better.

The Hon. L. A. Logan: The Marble Bar hotel has been improved.

The Hon. H. R. ROBINSON: When I visited the north as a member of the gold-mining committee I stayed at the Marble Bar Hotel for a night or two, but the standard was not good at that time. If investors are prepared to sink capital into the establishment of hotels in the north they should be given some protection against the granting of canteen licenses in close proximity. The Licensing Court could grant a canteen license within a quarter of a mile from an existing hotel.

The Hon. F. R. H. Lavery: You should have more respect for the Licensing Court to think that it will grant a canteen license in such circumstances.

The Hon. H. R. ROBINSON: The court could do that. It is reasonable to have the distance specified. For that reason I move—

That the amendment made by the Assembly be amended in new clause 6 by inserting after the word "miles" in the fifth-last line of the proposed subsection (3), the passage ", but not within ten miles, by the nearest practicable land route,".

The Hon. A. F. GRIFFITH: I am prepared to concede the point made by the honourable member. The reason for the amendment arose out of the difficulty being experienced in supplying alcoholic refreshments, to meet the needs of the people who work in the north. Under the existing provision in the Act no canteen license can be granted within 20 miles of a publican's general license, a wayside license, etc.

The distance from Port Hedland to Finucane Island is relatively short by water, but the distance by road is relatively long. The Act provides for the nearest practical route. The nearest practical route between those two places is by water, but at times the boat cannot get across.

I am satisfied that the Licensing Court will only grant a canteen license where it is absolutely necessary. Under the amendment made by the Assembly, the

court has to be satisfied that by reason of the operations of the company on behalf of which the application is made, it is unreasonable or impracticable to require the premises in respect of which a canteen license is sought to be situate in conformity with the proviso. Under the amendment proposed by Mr. Robinson, as long as the distance is not within 10 miles by the nearest road route of an existing license an application may be granted. It is intended that a license granted in pursuance of this provision will extend to the 31st December, 1969, which is the end of the period set down for the construction of the project.

Council's amendment on the Assembly's amendment put and passed; the Assembly's amendment, as amended, agreed to.

The Hon. A. F. GRIFFITH: I move—

That amendment No. 4 made by the Assembly be agreed to.

In the interpretation of the term "owner" we have included the owner, the vendor, and the purchaser. It has been pointed out that an owner who has sold his license under a contract of sale might be ordered by the Licensing Court to effect improvements. These improvements would cost a certain sum, but the owner would not be able to obtain a reimbursement from the purchaser. An amendment has been made to provide that where an order has been made against an owner, who is the vendor of licensed premises being sold under a contract of sale, if that owner is not in possession of re-entry under the contract and has carried out the work, the sale price of the premises under contract is to be increased by the total amount properly expended by the vendor in carrying out the work.

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

Report

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

LEGAL CONTRIBUTION TRUST BILL

In Committee

The Chairman of Committees (The Hon. N. E. Baxter) in the Chair; The Hon. A. F. Griffith (Minister for Justice) in charge of the Bill.

Clauses 1 to 4 put and passed.

Clause 5: Trust established—

The Hon. H. K. WATSON: I draw attention to paragraph (b) of subclause (2), which provides that the trust is capable, in its corporate name, of acquiring, holding, and disposing of real and personal property, and of suing and being sued in that name.

It was under this precise power that the Totalisator Agency Board purchased the business and freehold premises of the *Fairplay* newspaper. That being the position the trust might have similar ideas, and might acquire a newspaper or property.

The Hon. A. F. GRIFFITH: The comments of the honourable member are noted, but the bow which he has drawn is fairly long.

Clause put and passed.

Clause 6: Constitution of Trust—

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

Page 5, line 1—Delete the word "three" and substitute the word "four".

The clause contemplates that a committee of three persons shall be appointed, two of whom shall be legal practitioners and one of whom shall be nominated in writing by the Minister. It could conceivably consist of three solicitors, and to my mind that is very undesirable. During the second reading the Minister advised that it was his intention that the third member should be a Treasury officer. I am not so sure this will meet the case, because with a committee of three the two legal practitioners could always outvote the third member, assuming he is not a legal practitioner.

Further on in the Bill it is provided that the majority shall determine a matter, and if the vote is equal the question shall pass in the negative. I suggest that the proposed trust should consist of four members, so as to have a more reasonable balance, with two legal practitioners and two non-legal members. A more reasonable measure of unanimity will then be required to arrive at a decision.

The Hon. A. F. GRIFFITH: I have a fairly open mind on this point. The amendment moved by Mr. Watson is born of conjecture that there will be a desire on the part of the two legal practitioners on this trust to overcome the objectives of the third member. This might be a valid argument if it were not for the fact that there is not a lot which the trust can do. It is only empowered to do the things specified. I put a considerable amount of trust in the principle of the Bill for the appointment of a committee of three—one representing the Law Society, one the Barristers' Board, and the third to be, as I intend, a Treasury officer.

There is provision for a quorum, of course, but if the voting is equal the questions are resolved in the negative. I say again that if these questions were of the utmost importance, I perhaps would not mind; but in relation to the money which is to be apportioned, this is all set down in the Act and I do not think the trustees can wander very far from the provisions, and nothing can be done without reference to the Minister. I repeat that I have a fairly open mind on this point, but as yet I have not been convinced by the argument of Mr. Watson.

The Hon. J. DOLAN: I cannot go along with the amendment. Despite the Minister's

assurance that one would be an officer of the Treasury, Mr. Watson suggests that he could also be a legal man. If Mr. Watson's amendment is carried, the same objection could be raised with regard to the four.

The Hon. A. F. Griffith: I am going to tidy up paragraph (c) in any case.

The Hon. J. DOLAN: After all, the members of the legal fraternity are running the scheme. They provided the framework for its effective operation, and in those circumstances I feel the trust should consist of at least two lawyers so that they will have a majority. For these reasons I oppose the amendment.

The Hon. E. M. HEENAN: I approach this amendment in much the same manner as the Minister. I think it is totally unnecessary. Usually it is advantageous to have three members on a board such as this, representing the very people vitally involved.

If we leave the board as it is, it is probable that two members will be solicitors. However, let us see who they will be. The first will be nominated by the Law Society, the body representing all the qualified lawyers admitted and practising in Western Australia. We have had dealings with the Law Society from time to time. The president and committee are elected by the solicitors, and the best-fitted legal practitioners are invariably appointed to the committee in the same way as are doctors, architects, and members of a football team. All the members have a vote and the best men are appointed. The president of the Law Society at present is Mr. John Dewar, a man of the highest integrity.

Members can rest assured, therefore, that whoever is nominated by that body will be someone of the highest integrity.

The next member is to be nominated by the Barristers' Board of Western Australia, and I will inform members as to who are members of the Barristers' Board. The Minister for Justice is *ex officio* chairman.

The Hon. A. F. Griffith: No-one would doubt him!

The Hon. E. M. HEENAN: The other members are the Solicitor-General, all the Queen's Counsels, and five practitioners of at least three years' standing. That is a board with pretty high qualifications.

The Hon. J. G. Hislop: What is the average attendance at the board meetings?

The Hon. E. M. HEENAN: I could not say, but I can assure the honourable member that it is in keeping with the responsibility of all its members.

The Hon. A. F. Griffith: I can tell Dr. Hislop that the meetings are very well attended.

The Hon. E. M. HEENAN: I am surprised that the honourable member should even ask the question. If the members do not attend meetings regularly, they do not stand up to their responsibility. Members can be assured that whoever is nominated by the Barristers' Board will be a man of the highest integrity—probably a Queen's Counsel or the Solicitor-General.

In addition, the Minister is to nominate someone and I would think that he would nominate someone from the Treasury. Why it is desired to appoint still another member to such a committee, I do not know. The amendment is quite unnecessary, redundant, and would involve further expense, and, therefore, we should not support it.

The Hon. J. G. HISLOP: I am not at all happy about the Bill as a whole, and I can say that in recent days eminent members of the legal profession have said to me, "You are not going to vote for this Bill are you, and lower the prestige of the legal profession?" If that is the attitude, it gives me considerable concern.

When the situation is looked at from the legal point of view, it must be realised that the money gained will not belong to the law or to the profession. It will belong to one person—the person who wins the case. There is no justification whatever for the legal fraternity taking it—not a bit—and that is why I ask—

The Hon. A. F. Griffith: What are members of the legal fraternity taking?

The Hon. J. G. HISLOP: The interest from the money.

The Hon. E. M. Heenan: Are your informants members of the Law Society?

The Hon. J. G. HISLOP: I am not saying any more than did the honourable member, and I think that will finish it.

The Hon. A. F. Griffith: It will not finish it as far as I am concerned.

The Hon. J. G. HISLOP: I think we must find out exactly where we stand, because this to me is a most extraordinary Bill.

The Hon. W. F. Willesee: On a point of order, are we dealing with the amendment?

The CHAIRMAN: I would point out to Dr. Hislop that the question before the Committee is that the word "three" be deleted and the word "four" substituted.

The Hon. J. G. HISLOP: I could start by saying that the word should be deleted, and then continue; but I am not going to do that.

The Hon. A. F. GRIFFITH: I am concerned that Dr. Hislop should make the assertion he has just made because it is my understanding that the members of

the Law Society have had an opportunity to express an opinion about this matter and they have done so in favour of it. If a number of eminent practitioners have said something to Dr. Hislop, I would be glad to hear his information in private outside the Chamber, because this does concern me.

Regarding the amendment before the Chamber, I have not heard an argument in its favour, bearing in mind the spirit in which, as far as the Law Society is concerned, the Bill is being presented. I do not attend meetings of the Barristers' Board. I am the chairman *ex officio*, but the Solicitor-General usually takes the chair. I receive a copy of the minutes of the meetings, which are very well attended; and I am aware of the business which is dealt with by the board.

The Hon. H. K. WATSON: Mr. Heenan has given us a very fair exposition of what is the Law Society. It is virtually the professional trade union of the legal fraternity. As the Bill stands it provides for the reimbursement of persons who suffer from defalcations by solicitors, without any expense to solicitors by way of bond or insurance. It is also a measure to hand out a substantial part of the money collected under the Bill to members of the legal fraternity for services rendered to persons entitled to legal aid. Like the course of justice, the administration of this Act should not only be above reproach, but should also appear to be beyond reproach.

Here is a committee of solicitors deciding what fee shall be paid to one or more of its number or profession. Over the years a great deal of controversy has arisen about members of Parliament fixing their own salaries, and yet that very principle is embodied in this Bill. Although for over 50 years members of Parliament have fixed their own salaries, there have been moves in other States, and suggestions in this State, that someone else should have a say in the matter—not only members of Parliament. I suggest that in just the same way, legal practitioners should not have the sole say as to how they should be saved from contributing to this defalcation guarantee fund and as to how much they shall receive as legal fees from this fund for assisting persons who need assistance. This should not be left to a committee or a trust, the majority of the members of which are members of the legal fraternity.

I suggest the committee could well be four—the two legal men mentioned, an acountant who is qualified to audit under the Companies Act, and for the reason I mentioned about the Law Society being the professional trade union of the legal profession, a person nominated by the Australian Trades and Labour Council should be in a position to represent the rest of the unions.

Other people's money will be dealt with. It will be necessary to decide whether to pay a solicitor, $100, $500, or $1,000 for legal assistance. All sorts of things are involved in the measure and I consider the committee should consist of four members.

The Hon. A. F. GRIFFITH: The argument put forward by Mr. Watson in respect of the determinations which four people, instead of three, will make is a lot of nonsense.

The Hon. H. K. Watson: It is not.

The Hon. A. F. GRIFFITH: It is, because the people on the committee are not going to decide what legal fees will be paid to solicitors.

The Hon. H. K. Watson: Of course they are.

The Hon. A. F. GRIFFITH: If the honourable member goes through the Bill again, I am sure he will see, in connection with legal aid, that it is a matter which is to be left to the Law Society. If the amendments proposed by the honourable member are all agreed to, they would wreck the Bill. We know he is opposed to it; he has left no doubt in my mind that he wants to get rid of it if he can.

Let us not go beyond the point that the trust will not make the determinations which are mentioned by the honourable member. It will merely carry out the administration. The responsibilities, firstly, for legal aid will be in the hands of the Law Society. Secondly, in connection with law reform, my department will have a very substantial part to play. It will be an expansion of the Law Revision Committee which now exists. Certain people will be brought in to help with the work and they will be paid. The trust will not make these determinations, but will merely run the administration side. Consequently, it does not matter whether the committee consists of three or four members.

The Hon. J. DOLAN: At this stage, I would just like to remove any misconception in connection with fees for legal aid. A certain standard of fees is set for the legal fraternity by the Law Society. When taking cases of this nature, all barristers and lawyers have agreed to be satisfied with 90 per cent. of the regular fee. If one deducts 10 per cent. from the regular fee, which is very big in a number of cases, one will see the barristers and lawyers are making an enormous contribution towards the effectiveness of the legislation.

The Hon. A. F. Griffith: I have not even agreed on 90 per cent. yet.

The Hon. J. DOLAN: That is somewhere near the amount which has been suggested. It is a misconception entirely for anyone to suggest that lawyers will be on a good wicket and the trust will fix the fees which will be paid. The question of giving legal aid to those who seek it is no boon to members of the Law Society or to members of the legal fraternity. I am

surprised at some of the statements which are being made. A question was asked by way of interjection as to the nature of the trust. I would say that the trust, the Barristers' Board, and the Law Society are just as reputable and trustworthy as the A.M.A. or the B.M.A. I would go along at any time with any of these bodies; I make no reflection on any of them. They deserve our highest regard, and interference with the legislation is wrong.

Amendment put and negatived.

The Hon. A. F. GRIFFITH: Mr. Watson has on the notice paper an amendment to line 7 on page 5 of the Bill. I assume he will not now move it.

The Hon. H. K. Watson: That is right.

The Hon. A. F. GRIFFITH: I wish just to clear up one point. There is some doubt as to the sort of person the Minister may nominate. Accordingly, I move an amendment—

> Page 5, line 7—Insert after the word "person" the passage ", not being a practitioner,".

Clause 6 (1) (c) would then read—

> One shall be a person not being a practitioner nominated in writing by the Minister.

This will give strength to my intention that the person shall not be a practitioner.

The Hon. J. DOLAN: There are all kinds of practitioners, and I think it would be as well to define this person to be a legal practitioner.

The Hon. A. F. Griffith: If the honourable member looks at the Legal Practicioners Act, he will find the interpretation. Naturally it will not be a medical practitioner.

Amendment put and passed.

The Hon. A. F. GRIFFITH: I assume Mr. Watson will not want to move his further amendments.

The Hon. H. K. Watson: That is correct.

The Hon. A. F. GRIFFITH: The wording of subclause (6) of clause 6 is—

> The trustee nominated by the Society shall be Chairman of the Trust, but, during any period in which no such trustee holds office, the trustee nominated by the Minister shall act as Chairman.

I think it would be preferable if the wording were as follows:—

> . . . . during any period in which no such trustee holds office the Minister shall nominate a trustee to act as Chairman.

This would make it perfectly clear that the Minister will appoint a person in the event of the chairman who has been appointed by the trust being away. Accordingly, I move an amendment—

> Page 5, lines 38 and 39—Delete the words "trustee nominated by the Minister shall" and substitute the words "Minister shall appoint a trustee to".

Amendment put and passed.

The Hon. A. F. GRIFFITH: While we are dealing with clause 6, I wish to make a brief reference to clause 7 (2). The wording is as follows:—

> A trustee may, while holding office, by writing under his hand, appoint a proxy . . .

If, in the event of the chairman being away, I am to appoint a chairman from the trustees, I think it would be better probably if deputies were appointed. I consider it would be better to have deputies in the first place rather than allow the trustee to appoint his own proxy. The result would be that when the Law Society, the board, and I make our respective nominations, each of us can nominate a deputy. I move an amendment—

> Page 5—Insert after subclause (6) the following new subclause to stand as subclause (7):—
>
> > (7) Persons nominated in accordance with the provisions of subsection (1) of this section may be appointed by the Governor as deputies, to act in the respective offices of trustee, in the absence of the occupants of those offices.

I think the wisdom of this is apparent. It will simply provide for deputies rather than proxies. When we come to clause 7, I will ask the Committee to take out the appropriate part of that clause and substitute another subclause.

Amendment put and passed.

Clause, as amended, put and passed.

Sitting suspended from 6.13 to 7.30 p.m.

Clause 7: Meetings of Trust—

The Hon. A. F. GRIFFITH: I wish to move to delete subclause (2) and to insert in its place a more properly worded subclause which will deal with the appointment of deputies. I move an amendment—

> Page 6—Delete subclause (2) and substitute the following:—
>
> > (2) A person appointed under subsection (7) of section six, as a deputy, is entitled, in the absence from a meeting of the Trust of the trustee for whom he is the deputy, to attend that meeting and, when so attending, is deemed to be a trustee and is authorised to carry out any function that the trustee for whom he is the deputy could, if present, carry out or would be required to carry out, under this Act.

This is in conformity with the amendment made to clause 6.

Amendment put and passed.

The Hon. A. F. GRIFFITH: I move an amendment—

Page 6, line 14—Delete the word "proxies" and substitute the word "deputies".

This is a consequential amendment.

Amendment put and passed.

The Hon. A. F. GRIFFITH: I move an amendment—

Page 6, line 20—Delete the word "proxy" and substitute the word "deputy".

Amendment put and passed.

Clause, as amended, put and passed.

Clause 8: Use of common seal—

The Hon. A. F. GRIFFITH: I move an amendment—

Page 6, lines 31 and 32—Delete the words "and not by their proxies".

This is a consequential amendment.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 9: Functions of Trust—

The Hon. A. F. GRIFFITH: I know I am not permitted to talk about the Legal Practitioners Act Amendment Bill (No. 2), which is the next item on the notice paper, but it does not provide for any payment by the practitioner towards the legal contribution trust, and the suggestion has been made that some arrangement for payment should be provided for in the Bill to amend the Legal Practitioners Act. What I have in mind is to introduce some amendment for consideration by the Committee which will make it obligatory for a practitioner to make some sort of contribution in the scheme of things. Rather than recommit this Bill, if the words "section eleven" in line 35 on page 6 were deleted, and the words "this or any other Act" were substituted, it would cover the position. Those words would still have application to the Legal Practitioners Act Amendment Bill (No. 2).

I ask the Committee to accept the proposal in good faith, but if anything happens when we are discussing the Legal Practitioners Act Amendment Bill (No. 2) in Committee, and the suggestion is not agreed to, this Bill can be recommitted to put the position right. I will hold this Bill at the third reading stage for that purpose. The two measures go side by side. I move an amendment—

Page 6, line 35—Delete the words "section eleven" and substitute the words "this or any other Act".

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 10 to 12 put and passed.

Clause 13: Investment of moneys deposited with Trust—

The Hon. H. K. WATSON: This clause provides that the moneys invested by the trust shall be by way of a deposit with the bank with which a solicitor keeps his trust funds, or on loan, repayable on demand, with the Treasurer of the State. I suggest that Loan Council considerations could come into this question and, secondly, inasmuch as the money is with the solicitor's bank then it seems that part of it which is being taken out of the solicitor's account and put into the trust's account should be with the same bank. Therefore, I move an amendment—

Page 8, lines 36 and 37—Delete paragraph (b).

If that is agreed to, I shall move to delete the words "in either case" in line 38 on page 8.

The Hon. A. F. GRIFFITH: Frankly, I do not know what effect Loan Council considerations would have on the situation, but paragraph (b) was put in as an alternative method for the trust to be able to invest money. I concede that the trust account and the account opened by a practitioner will be maintained within the same bank, and I suppose it is not unreasonable to suggest that the income-earning capacity of the money should also be left with that bank. I have an open mind on the matter and as this is not the be-all and end-all of the Bill, I am prepared to agree.

Amendment put and passed.

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

Page 8, line 38—Delete the words "in either case".

This is a consequential amendment.

The Hon. J. DOLAN: I would suggest to Mr. Watson that the word "or" will also have to come out.

The Hon. H. K. Watson: That is consequential.

The Hon. A. F. GRIFFITH: I think the clerks will tidy up that point. Not only the word "or" but also the paragraph designation (a) will have to come out.

The CHAIRMAN: The clerks will tidy that up.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 14: Application of moneys resulting from investments—

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

Page 9, lines 11 to 16—Delete paragraph (b) of subclause (1).

This paragraph constitutes the guarantee fund. If there is to be a non-contributory fund of a general nature can the Minister tell me why it should be limited to those who have been defrauded by solicitors? Why should not it be extended to those defrauded by land agents, or by debt collectors?

The Hon. A. F. Griffith: Or by accountants.

The Hon. H. K. WATSON: The money is not contributed by solicitors, so why should the fund be restricted to those defrauded by solicitors?

The Hon. A. F. GRIFFITH: I am sure the honourable member knows the answer before he asks the question. This is a legal contribution trust fund.

The Hon. H. K. Watson: To which legal experts pay nothing.

The Hon. A. F. GRIFFITH: The honourable member is either deaf or he does not wish to hear, because a moment ago he accepted an amendment to clause 9 which foreshadowed the purpose in mind.

The Hon. H. K. Watson: I am dealing with the Bill as it is.

The Hon. A. F. GRIFFITH: The honourable member is dealing with the position he makes. This provision deals with the legal fraternity and has three principal objectives—the guarantee fund, legal aid, and legal reform.

The Hon. J. G. Hislop: Given by others. It comes out of the money they provide.

The Hon. A. F. GRIFFITH: The fund is established by the earning capacity of that portion of the practitioner's fund which is paid in for the purpose of earning that income. When that income is earned the several objectives of the Bill are fulfilled from time to time. Anybody would think I am trying to put something over the Committee.

The Hon. H. K. WATSON: Having received no satisfactory answer, I will proceed with my next point. I see no reason why the protection of a person defrauded by a solicitor ought not to be achieved by the same method as a person who is defrauded by a land agent or a debt collector. The land agent and the debt collector pay an annual insurance premium for a fidelity bond, and I suggest the solicitors should do likewise.

I understand the premium paid by a land agent is $4 per thousand. If a solicitor were to take out cover for $10,000 it would cost him a premium of $40 a year; and on $20,000 it would cost him $80 a year, which is a trifling amount. This could provide cover for the person who suffered by defalcation, and it would leave $100,000 for aid; because, as it stands, paragraph (b) reduces what otherwise would go to the legal aid fund by $100,000. That sticks in my throat. This protection should not be afforded at somebody else's expense. It should be provided by the legal practitioner, in the same way as it is done by the land agent and the debt collector.

The Hon. J. G. HISLOP: In the medical profession we look after ourselves when this sort of thing happens. We have a defence fund into which I have been paying for years. We do not look to anybody else's money to protect us. The committee appointed for the purpose looks into all the charges made against members of the medical profession. This proposal will degrade the legal profession, and that is not what we want.

The Hon. A. F. GRIFFITH: The main point of this legislation has been forgotten. We cannot talk about the guarantee fund and conveniently forget the rest; nor can we agree to take out paragraph (b)—if we want the present concept of the Bill—because there will be no guarantee fund at all if we do that. There is nothing to stop the legal fraternity from doing what Mr. Watson suggests.

The Hon. J. Dolan: They are prepared to do that.

The Hon. A. F. GRIFFITH: The honourable member may know something I do not know. The land agent and the debt collector already do this. I do not know what the accountants or other professions do, but none of these people are part of legal aid and legal reform.

The Hon. H. K. Watson: Which has nothing to do with this item.

The Hon. A. F. GRIFFITH: That is the honourable member's opinion. The earning capacity of this money has a fourfold purpose: Firstly, to cover the cost of the administration of the fund; secondly, the fidelity bond; thirdly, legal aid; and, fourthly, law reform.

The Hon. J. G. Hislop: All paid for by the person and not by the legal fraternity.

The Hon. A. F. GRIFFITH: Whom does the honourable member mean?

The Hon. J. G. Hislop: The man who paid the money down.

The Hon. A. F. GRIFFITH: Who is that?

The Hon. H. K. Watson: The solicitor's client.

The Hon. A. F. GRIFFITH: I carefully went through Lord Reid's findings in the House of Lords. He said the money has no ownership.

The Hon. J. G. Hislop: Complete nonsense.

The Hon. A. F. GRIFFITH: Has the honourable member read it?

The Hon. J. G. Hislop: Yes.

The Hon. A. F. GRIFFITH: I read it to the Chamber a few days ago. I admit he said the accountant could work out a procedure, but he added it would be difficult to do so. The money going into this fund cannot be named and placed against a particular client. If this could be done the practitioner would do it.

The Hon. V. J. Ferry: A number of solicitors do in fact adopt this procedure.

The Hon. A. F. GRIFFITH: If paragraph (b) is taken out we will destroy a substantial part of the Bill. As the money is fed to the guarantee fund, as is from time to time by agreement determined, the amount of the insurance policy will come down as the fund rises. When it reaches $100,000 the guarantee fund will stay revested with the bank. I hope the Committee will not take out paragraph (b).

The Hon. E. M. HEENAN: I hesitate to speak on this amendment because the Minister is handling the matter most adequately. I cannot understand the bitterness that has been projected into the debate by my old friend Dr. Hislop. Like doctors and accountants, solicitors are ordinary people. Just about every firm of solicitors in Perth takes out an insurance policy as protection against claims for negligence.

Solicitors pay into the Law Society and also make contributions to the Barristers' Board, and so on. There is a pool of money which does not belong to them, and, as the Minister has pointed out, it does not belong to anyone temporarily. The only people who derive an advantage are the bankers. The solicitors do not get a penny. If Dr. Hislop asked my office to collect 50 of his accounts, the money would come in in dribs and drabs; there would be about $100 floating around. There is a big pool of money with the large firms of solicitors. Fortunately, in Western Australia, the legal profession has a reputation which is second to none.

For a long time, one has not heard of any solicitor robbing the public or a client, but there is always this risk. In recent years people have been ruined because they have paid their life savings to land agents and others and have been defrauded. By virtue of the fact that the trust accounts are audited, and every precaution is taken where solicitors are concerned, why not have this fund? Solicitors will not get anything out of it. If a solicitor does default and robs someone of a vast amount, at least for that person there is a fund. Doctors do not handle money like this, nor do land agents. Accountants do not; but lawyers who wind up estates and do multitudinous jobs have this money, so why not put it to some good use? That is one of the merits of the Bill.

The Hon. H. K. WATSON: In my opinion the Minister has confused the issue. He says the Bill is of a fourfold nature. Let us assume it to be of a threefold nature: The provision of legal aid; the provision of money for legal aid; and the provision of money for law reform. These three objectives are, in themselves, laudable and can be given effect to without drawing in the unrelated question dealt with in paragraph (b); that is, the protection of clients of solicitors from defalcations by solicitors. Paragraph (b) simply means that $100,000 which would otherwise go to providing legal aid and law reform will go to meeting a protection which ought to be provided and paid for by legal practitioners.

The Hon. A. F. GRIFFITH: New South Wales has found legislation such as this to be laudable; and Victoria and Queensland have found it to be sound. We are following the example of those three States. In addition, the $100,000, when applied to the fidelity bond, is not lost but invested and reinvested and, if there is no defalcation, the interest on the investment will go to legal aid and legal reform.

The Hon. H. K. WATSON: In reply to the Minister I would say this: In New South Wales there are one-armed bandits, but that is no reason why we should have them in Western Australia. Apparently, from what the Minister has said, in New South Wales there are two-armed bandits, but that is no reason why we should have them here.

The Hon. J. G. HISLOP: It was suggested by the tone in which Mr. Ferry spoke that the legal fraternity was always doing things for nothing. He does not have any knowledge of the number of people who are treated by the medical profession without cost. We are not looking for credit for this sort of thing.

The Hon. V. J. FERRY: By way of interjection I said that it is the practice of many solicitors, when funds are lodged with them by clients and held in trust and it is known the time factor may be lengthy, to arrange for the money to be properly invested in trust and the interest returned automatically to the client when the transaction is wound up.

There seems to be quite a cloud over the actual machinery function of funds held in solicitors' trust accounts, and the intention before the Committee at the moment. In addition to what I have already related, solicitors, in accordance with the laws of the land, conduct trust accounts with banks, which are operated on a day-to-day basis. These trust accounts have deposited in them all sorts of odd amounts from perhaps a few cents to higher amounts; and the proposal before the Committee is that half of the minimum balance of these day-to-day accounts shall be deposited in a separate account to the trust on which interest shall be earned. In all practical sense, I must ask: Who is to say whose money gets set aside in this half minimum balance of the total account and whose does not? It is quite impractical to sort it out on this basis because it is a day-to-day balance.

It is well-known banking practice that the banks pay on the minimum monthly balance of a client's savings account. If I lodged $1,000 in a savings account on the first of the month and on the 28th of that month withdrew $990 and, on the 29th redeposited $990, I would earn interest on $10 for the full month. If funds are lodged on a fixed deposit interest is paid for the full period that the funds are lodged. Under this measure it is quite clear to me that it is not possible to differentiate whose funds are whose; because if the trust receives half the minimum monthly balance of a daily trust account, who is to say whose $10 or $100 is in it?

The Hon. S. T. J. THOMPSON: I am somewhat confused. I thought Mr. Watson was trying to eliminate one of the four purposes and not arguing against the others at all.

The Hon. H. K. Watson: That is so.

The Hon. S. T. J. THOMPSON: The last speaker was referring to something different and I would like to clear that point up.

The Hon. V. J. Ferry: I was trying to clarify an issue that had been raised.

Amendment put and negatived.

The Hon. H. K. WATSON: The measure provides that the legal aid fund shall be administered by the Law Society. For reasons which I have already mentioned, I am of the opinion that legal aid should be administered by the trustees of this fund; that is, by the committee of three, two of whom will be practitioners and one a non-practitioner. Having regard to the importance of this fund, its operations should not be left entirely to the Law Society but should be administered by the trust which will administer the Act. That is the purpose of the amendment which I have circulated.

It is apparently contemplated that henceforth the Law Society will have extensive funds to parcel out to its members for rendering legal advice and legal assistance either of an office nature or in the courts, and that all of this money shall be ladled out by the Law Society. It is almost analagous to having the parole board consist of inmates of the Fremantle Gaol.

I feel someone other than a solicitor should have a say in how this money is to be handed out. For example, I understand that hitherto legal aid has, in the main, been confined to providing counsel for someone charged with a criminal offence who is destitute. I would like the Minister to give the Committee some indication whether that view is correct or whether legal aid, in the past, has been of a wider nature.

Whatever the position has been in the past the Minister has made it pretty clear, by quoting from the report of the Law Society, that in the future it is also to be extended into the happy hunting ground of divorce.

The Hon. F. J. S. Wise: Is that a happy hunting ground?

The Hon. H. K. WATSON: I understand for solicitors that it is. I have succeeded so far in keeping out of the divorce court myself and I have no idea what the legal costs are for obtaining a divorce. However, I do feel the Committee is entitled to some indication of the average cost of a divorce. There is room for all manner of even honest liberal allowances and this measure—unlike the Workers' Compensation Act which contains a schedule saying how much a man should get for this injury or for that injury, and how much he should spend on medical attention and so on—leaves it entirely to the society, the members of which are receiving the money.

I do feel the administration of legal aid should be by the trustees mentioned in clause 6, rather than by the Law Society. I move an amendment—

Page 9, line 23—Delete the words "to the Society".

The Hon. A. F. GRIFFITH: In the first instance, I think it is a pity that this debate has included expressions such as "to parcel out to its own members". There is some suggestion that this Bill is a benefit for the Law Society, and that it will get hold of the money and make a great profit for itself. I deplore those suggestions.

The Hon. J. Dolan: So do we.

The Hon. A. F. GRIFFITH: That is not a correct assumption for Mr. Watson to arrive at. Legal aid, in the form which is now practised, is carried out by the society and the Government assists by making a grant of some $14,000 a year. The Law Society submits a report—some extracts from which I have read to the Committee—of what it does with the $14,000 a year. Most of that money goes in administrative charges. Most of the legal aid is being given voluntarily by a certain selected number of solicitors. The amount of legal aid which can be given is, of course, limited and I make no secret of the fact that I want to extend it.

What if the money is spent in the field of divorce? Some poor woman who now cannot get a divorce might be able to receive relief. A number of such cases were submitted to the Law Society last year.

The Hon. R. F. Hutchison: I have two cases.

The Hon. A. F. GRIFFITH: Please do not help me. I will forget what I want to say. Those cases could not be granted aid, but let us not make any secret of the fact that the Bill before us does seek to extend legal aid. We will not extend legal aid for the fun of it, and there will not be a situation where lawyers can parcel out some of the money to which we have been referring to the members of the Law Society.

People seeking aid will still have to go through the legal aid section of the Law Society and they will still be asked questions regarding their ability to help themselves. The amendment is to take out the words "to the Society," so that the trust will have to do the work which the society is now doing, and which it has been doing for many years. The legal aid committee of the Law Society comprises some six to eight people who spend a lot of time voluntarily deciding who should get legal aid, and deciding which lawyer or solicitor should take a particular case. Are we to

thrust this work on to the trust so that three or four men will do the same work?

The Hon. H. K. Watson: What do you form trusts for?

The Hon. A. F. GRIFFITH: The trust is to be formed to carry out the administrative work. If the trust were asked to undertake law reform, that would be an impossible situation. We would need a lot more assistance than that which can be provided by two practioners and one member of the Treasury to carry out law reform.

A practitioner who acts, or who has acted, for an assisted person—as such—is entitled to be paid such percentage as might be prescribed of the fees which would be paid to him in the ordinary course of his work. So it will not be a question of lawyers parcelling out this money to each other. The suggestion is ridiculous and quite unnecessary.

Finally, I want to say I have the greatest respect for the manner in which the Law Society has conducted the legal aid scheme. I am quite prepared to leave the responsibility for this section of the legislation in its hands, because it is composed of responsible people.

Anyway, what if the society did go haywire, and did parcel out money? Is it thought that I would stand for that, or the Minister who takes my place would stand for it?

The Hon. H. K. Watson: What would you know about it?

The Hon. A. F. GRIFFITH: Really, Mr. Watson, what would I know about it? I will know as much about it as the honourable member because there is an amendment on the notice paper to say that a report will be laid on the Table of the House. Is that not right?

The Hon. H. K. Watson: Yes.

The Hon. A. F. GRIFFITH: To me, the question is largely frivolous, and I will not answer it further.

The Hon. E. M. HEENAN: There are one or two matters I would like to mention in addition to what the Minister has already said. I express a regret at some of the language which has been used, such as the phrase "hand out." That phrase, in my mind, indicates that something is not "fair dinkum" to use a common Australian term. It is a pity that the term was used in a debate dealing with members of the legal profession. We do not hear such expressions when dealing with matters related to the medical profession.

Surely the extension of legal aid to the poor people of the community who cannot afford it is a good goal. Up to date a small amount of legal aid has been available, but it has had to be restricted. People have had to be screened very carefully. It is essential that they must be absolutely poor and unable to employ legal aid to vindicate themselves. Divorces have been entirely out because they are expensive. Court fees have to be paid; witnesses have to be paid; frequently professional witnesses have to be called and paid; and sometimes inquiry agents have to be employed.

It is difficult to say how much any one case would cost, but when a solicitor renders his bill for a divorce—or for any other legal case which he has handled—he has to list every item seriatim and in chronological order. A person who receives a bill, if dissatisfied, or if querulous, even, goes to the Master of the Supreme Court, and he goes through the bill with a fine-tooth comb. The items are allowed or disallowed according to his judgment. So any solicitor who is handed a brief under this scheme will not get any hand out.

The Hon. H. K. Watson: Have you any idea of the cost of a divorce case?

The Hon. E. M. HEENAN: An ordinary uncontested five-year separation case would cost around $200. A little over half of that would go to the solicitor for the preparation of the documents, the accumulation of evidence, the conducting of the case in court, and the tidying up when the period of three months has elapsed.

But there are poor people, as one can imagine, who cannot afford that. A woman whose husband has cleared out and left her with children wants to live an honest life, and have an opportunity to remarry. Perhaps she cannot afford this expense. The husband, who might be in Tasmania, has to be chased. Solicitors have to be engaged to find him and serve him with a summons. If he cannot be located advertisements have to be placed in papers, and members of the Committee have some idea of what that would cost.

If a genuinely poor woman, who is supporting her children and leading a decent life, is hard up, and if the committee of the Law Society thinks it is a case which should be helped, who will say "No. She will not be given help simply because it is a divorce case"?

As members know, there are all manner of cases. As the Minister has pointed out, there is a subcommittee of the Law Society composed of lawyers who, without payment, give up their time to attend meetings and sift through cases to decide who shall be assisted. This is a splendid Bill. I hope, once again, this provision will not be deleted.

The Hon. R. F. HUTCHISON: I wish to state that I took two cases to the Law Society, one of which involved a very poor woman in desperate straits. I received a great deal of courtesy and assistance from the society, and the woman was generously treated. I feel sure Mr. Heenan knows of this case. It is only two years since I took

my last case to the Law Society and I felt that I must state to the Committee how I was treated.

The Hon. H. K. WATSON: Very properly, Mr. Heenan informed the Committee that when a solicitor renders his bill of costs every item is listed with meticulous care. To complete the picture I would mention that, having set out very carefully the bill of costs, and assuming it totals $4,000, there is generally a delightful item at the bottom which reads, "To cost of preparing bill of costs, 5 per cent. on $4,000—$200." That item has always intrigued me, and I suggest that in legal aid cases the 5 per cent. item might well be forgotten.

Amendment put and negatived.

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

Page 10—Delete subclause (4).

As a practice of parliamentary drafting I would suggest that if the State Government Insurance Office is to be given further power it should be granted under the State Government Insurance Office Act and not under a Bill relating to all the legal matters that are set out in this Bill. It is quite out of place.

The Hon. A. F. GRIFFITH: When I introduced the second reading of the Bill I pointed out it was intended to apply for a policy with one of the private companies, but if there were any difficulty an approach should be made to the State Government Insurance Office to provide the cover. I have discussed this matter with the Law Society and it is perfectly clear that the trust will make application to one of the private companies for cover. This provision is in the Bill only in the event of not being able to get accommodation satisfactorily. If the subclause is deleted, and we are not able to get the accommodation, there will be no form of indemnity by way of insurance, and we will have to wait for a longer period for the $100,000 to reach its optimum, and the amount in the insurance policy will be reduced as the indemnity increases.

When we reach the Legal Practitioners Act Amendment Bill (No. 2), and some provision is made in that legislation, the $100,000 in the indemnity fund will be reached more speedily, and correspondingly the insurance policy will be required for a shorter period. Whether the State Government Insurance Office should be authorised to do this under its own Act, I do not know, but I proffer the statement that this is for a specific purpose and when the need for the policy no longer exists, it will be concluded. Therefore I would not want to leave a permanent provision in the State Government Insurance Office Act when the policy is required for only a limited period. That is the reason it is included in this Bill.

I reiterate that it is my intention to ensure that the trust makes application to a private company for this cover, but I do not want the trust to be in the position that it has no other way out. Members may say, "Why not approach the Fire Underwriters' Association and obtain a premium now?" but we cannot hold the trust to a contract prior to the legislation coming into operation.

The Hon. H. K. Watson: On what date is it contemplated the trust shall commence business?

The Hon. A. F. GRIFFITH: I cannot tell the honourable member, because when the Bill is passed rules and regulations will have to be drafted. The balance sheet of the trust account is struck as from the 1st July. Our intention would be to try to get it under way by the 1st July next year.

The Hon. H. K. Watson: It is conceivable that the Minister may not be sitting in his present position on the 1st July next.

The Hon. A. F. GRIFFITH: I regret the honourable member is so pessimistic about my prospects, but I do not share his pessimism.

The Hon. W. F. Willesee: In this instance, on this Bill, we are in complete agreement.

The Hon. A. F. GRIFFITH: Not in this instance, but we had better keep to the Bill. I think I have satisfactorily explained the position and I hope the Committee will allow the subclause to remain.

Amendment put and negatived.

Clause put and passed.

Clause 15: Trust to maintain accounts—

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

Page 11, line 13—Insert after the word "Board" the words "and the Minister shall have the same presented to both Houses of Parliament".

The Hon. A. F. GRIFFITH: I am prepared to agree, and will not take advantage of the opportunity I see before me to add more words, except to say that the draftsman has advised me it would be better if the amendment were worded, "and the Minister shall have them." Therefore, I move—

That the amendment be amended by deleting the words "the same" and substituting the word "them".

Amendment on the amendment put and passed.

Amendment, as amended, put and passed.

Clause, as amended, put and passed.

Clause 16: Guarantee Fund established—

The Hon. A. F. GRIFFITH: When dealing with clause 9 I referred to what I was hoping to be able to do when we deal with the Legal Practitioners Act Amendment Bill (No. 2). With the same thought in mind I would like to add a new paragraph

to subclause (2), to stand as paragraph (d). Therefore, I move an amendment—

Page 11—Insert after paragraph (c) the following new paragraph to stand as paragraph (d):—

(d) moneys paid to the Trust pursuant to section forty-two of the Legal Practitioners Act, 1893;

This will foreshadow an amendment that will follow in the Legal Practitioners Act Amendment Bill (No. 2). I again ask the Committee to agree to this amendment in good faith. If it is agreed to it will save my recommitting the Bill.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 17 to 27 put and passed.

Clause 28: Practitioners may claim in certain cases—

The Hon. H. K. WATSON: Without any hope of success, I would ask the Committee to vote against the clause. This is the most extraordinary provision in the Bill, for it states that where a partner in a partnership defaults, the other partners shall have a claim upon the fund to the extent of the loss. In any business the liability of the firm is the liability of all the partners; and if one partner goes astray surely the ordinary run of the law should apply, and the other partners of the partnership should take the responsibility. I do not know why the partners of a defaulting partner should receive special treatment.

The Hon. A. F. GRIFFITH: It is just as well we understand what the clause seeks to achieve. What Mr. Watson has said is substantially correct, but not completely or entirely correct. If he has led members to believe that because one member in a partnership has defaulted then the other partners will have a claim on the fund to meet the defalcation by that partner, then he has given the wrong intention of the clause.

The wording of the clause is—

Where all the claims of persons suffering pecuniary loss by reason of professional defalcation involving a partnership are fully satisfied and a practitioner who is, or was at the time of the defalcation, a member of the partnership has made payment to a person as compensation for pecuniary loss suffered by reason of the defalcation—

Who is the person who will benefit from this provision? It is the client whose money has been taken. The other partners might make the repayment in order, firstly, that the client may be reimbursed and, secondly, to maintain the good name of the firm. The provision goes on—

—then, if the Trust is satisfied that the practitioner was in no way privy to the defalcation and has acted honestly—

That means that the other partners had no knowledge of the defalcation, and had acted honestly. To continue—

—and, in all the circumstances of the case, reasonably, the Trust may accept from the practitioner a claim for the amount of the payment so made and deal with it, as though it were that of a person who has suffered pecuniary loss by reason of professional defalcation.

It would not be reasonable or honest for the other partners to say that they had not paid any attention to the books, and had not been aware of what the defaulting partner had done. Under ordinary circumstances they would have to take reasonable care, and they would have to satisfy the trust that they had no knowledge of the defalcation. They would have to satisfy the trust that the defalcation had occurred in circumstances beyond their control. Having in mind that the other partners have repaid the money to the client to maintain the good name of the firm, then the trust may accept from them a claim for the amount, as though it were a claim from the person who has suffered the pecuniary loss by reason of the defalcation.

The Hon. H. K. Watson: They would not do that to maintain the good name of the partnership; they would be compelled by law to pay the client.

The Hon. A. F. GRIFFITH: I gave two of the reasons, but the one just mentioned by Mr. Watson is quite sound. The client could sue all the partners, but the important aspect is that the client will make a demand for the return of his money straightaway. In such circumstances, provided the other partners have acted in the way I have described, they can make an application to the trust.

The Hon. H. K. WATSON: I admit that the legal profession in Western Australia has a reputation for integrity that is second to none in Australia; but I also realise that in the Eastern States some awful rackets have been worked by some members of the legal fraternity; as a result of which enormous losses have been suffered by their clients. From what the Minister has told us, if the partner of the thieving partner proved himself to be a half-wit and knew nothing of what was going on in the office, then he could make a claim. I submit under those circumstances he should have no right to claim against the fund. He should stand the loss as an ordinary business loss.

The Hon. A. F. Griffith: What Mr. Watson has just said is the opposite of what I have said. I said that the partner could not plead that he had no knowledge of the circumstances.

The Hon. H. K. WATSON: If he had knowledge he would not come under the provisions of this clause.

The Hon. W. F. WILLESEE: This clause departs from the general principle of the Bill. If the client of a legal practitioner suffers a loss in the way mentioned he will have this piece of legislation to fall back on. I submit that in cases of defalcation the ordinary law of partnership should prevail, and this fund should not be available under any circumstances to help the other members of a partnership. If a client is not able to recover the money from the partnership he would be entitled to recover it from the trust.

The Hon. A. F. Griffith: The defaulting partner can be made to repay the money, if he has the assets.

The Hon. W. F. WILLESEE: The legal profession should not be able to take advantage of the money held by the trust. There is a lot to be said for the deletion of the clause.

The Hon. E. M. HEENAN: If a member of a partnership defaults then the partnership will have to make up the amount of the default. That is the position as it is, and as it will be with the passage of this Bill. In the background is the money held by the trust. There might be rare instances when a call is made on the trust. Let us assume there is a partnership of five, and one of them is paid a large sum of money by a client for settlement of a sale of land the next day at the Titles Office, and that partner disappears. In those circumstances the four remaining partners will have to make up the amount of defalcation. However, if the trust is satisfied that the other partners were in no way privy to the defalcation, had no knowledge of it, took no part in it, had acted honestly, and in all the circumstances of the case, reasonably, then the trust may accept a claim for the amount. The point is the trust does not have to accept it, and that leaves the door open. We should bear in mind that the trust will comprise three eminent people.

We must remember that the trust has discretion in the matter. The other partners would have to be innocent. They would be in a position not much different from the client. The client has been robbed and so have the partners. In those circumstances, after having passed a very rigid test, it would be fair enough for the trust to have the opportunity to consider the matter.

The Hon. A. F. GRIFFITH: I would like to make my position clear. I said at the outset that I had an open mind on this. I propose to vote for the clause, but will leave the matter to the Committee.

The Hon. V. J. FERRY: I am not particularly happy about this clause and I agree with Mr. Willesee that it is not entirely within the spirit of the Bill, which I believe is primarily to protect members of the public. My interpretation of this clause is that it will more than likely offer protection to legal firms, and I do not believe it should give this type of protection. Other measures could be taken to correct the situation. I would prefer that the clause be deleted; and there is nothing to stop Parliament amending the Act in the future in the light of experience.

The Hon. F. R. H. LAVERY: I was involved in an experience in 1926, and although it is a long time ago I feel I am justified in speaking on this clause. The Minister, in reply to Mr. Watson, said that the fund would probably be created in July of next year. He also said that rules and regulations were to be promulgated.

I believe that subclause (2) is the important provision, and that it would not have been included by the draftsman unless a case had already occurred, or it was believed one would occur where an innocent party would be left lamenting. Therefore under the rules and regulations, and taking into consideration the fact that the accounts of the defaulting solicitor would be audited, I believe that his partner should be in a position to give some help to a client in a dilemma. I therefore intend to vote for the clause.

The Hon. N. McNEILL: My only reason for speaking on this clause is that there appears to be some divided opinion on it. I intend to support the clause. I believe the operative words are "a member of the partnership has made payment to a person as compensation for pecuniary loss." Although I am open to correction, I believe that this does not suggest that it concerns any out-of-pocket expenses or any other expenses which may be occasioned by the defalcation by some other member of the firm.

This refers to the reimbursement to an innocent practitioner for a payment he has made by way of compensation to a person who has suffered as a result of the defalcation by some other member of the partnership.

The Hon. A. F. Griffith: That is so.

The Hon. N. McNEILL: The intention of the Bill is to provide for some assistance to the client—the person who has suffered. As the Minister has said, this may well be an opportunity for an innocent partner to make some attempt to make good by way of immediate compensation to a suffering client.

We can well imagine the circumstances in which a client not only suffers pecuniary loss, but where he is also very seriously and tragically embarrassed at the same time. His immediate necessity is funds. It is in those circumstances that this clause would give an opportunity to a proved innocent partner to make such a payment by way of compensation, and, subsequently following the acceptance of his claim by the trust, to be reimbursed.

In those circumstances I find no fault with the clause. If the clause were deleted, a client could be denied the opportunity of prompt payment, at least in part, of the defalcation. The client would have to

wait until the trust had given due consideration to the whole question and, from my experience of law, meagre though it might be, I would say this could be months. If we delete this clause we will destroy the opportunity of prompt payment by way of compensation in the interim period pending the satisfaction of such a claim by the trustees themselves. I support the clause.

The Hon. C. E. GRIFFITHS: For the same reason Mr. McNeill entered the debate, I enter it also, although I intend to vote against the clause. I merely wish to commit myself before the clause goes to the vote. We are, under this clause, establishing a principle. We are allowing a partnership in a legal firm to get out of the responsibility of meeting the commitments which must be met by any other partnership.

The Hon. A. F. Griffith: That is not so.

The Hon. C. E. GRIFFITHS: That is my interpretation of the situation. The Minister can, in a moment, correct me if I am wrong. I believe that this principle far outweighs the advantages outlined by Mr. McNeill—that someone will be quickly compensated by one of the remaining partners, and that therefore his embarrassment will be relieved quicker than if he had to wait for the trust to allocate the money at some future date.

The Hon. N. McNeill: I did not say that.

The Hon. C. E. GRIFFITHS: The honourable member suggested that the compensation would be forthcoming very quickly—

The Hon. N. McNeill: Stop there!

The Hon. C. E. GRIFFITHS: —because the partner has seen fit to give it quickly.

The Hon. N. McNeill: Not to save embarrassment to the firm.

The Hon. C. E. GRIFFITHS: No; to save the customer embarrassment.

The CHAIRMAN: Order! Will the honourable member please address the Chair?

The Hon. C. E. GRIFFITHS: I am suggesting that Mr. McNeill said the client would not be embarrassed because one of the remaining partners would pay out the compensation immediately, on the understanding that he would eventually get it back from the fund.

The Hon. A. F. Griffith: Not on the understanding he would get it back. That is where you are wrong.

The Hon. C. E. GRIFFITHS: He hopes to do so. This clause will provide the possibility.

The Hon. A. F. Griffith: He does not do so on the understanding he will receive reimbursement.

The Hon. C. E. GRIFFITHS: The possibility is there. This clause will give him the knowledge that there is a remote possibility that the trust will reimburse him. Without the clause, he has no possibility, but with it there is a possibility. Whether the possibility is remote or good, depends on the evidence he supplies to the trust. I repeat that the principle of allowing partners to evade the necessity to face up to the obligations of some defaulting partner because it is a firm of solicitors, in my opinion outweighs this "perhaps" situation where a client will be embarrassed for the need of funds. Therefore I will vote against the clause.

The Hon. S. T. J. THOMPSON: I am going to vote for the clause because earlier in the evening we voted on an amendment which would virtually deprive the legal profession of any access to the fund, and we decided to retain it. If we vote against this clause we will create two categories—the partnership and the non-partnership. I cannot go along with this. Whether a partnership is involved or not, under this clause it is the client who is benefiting in the ultimate.

The Hon. H. K. WATSON: I think Mr. Syd Thompson is under a complete misapprehension. Mr. Willesee summed up the position in a nutshell. This clause is foreign to the general purpose of the Bill, the title of which includes the words, "to provide for the application to Public Purposes of moneys." The public purposes are the clients of the legal profession, not members of the legal profession. This is outside the whole intention of the Bill.

The Hon. N. McNEILL: I rise mainly to correct the impression that Mr. Griffiths has gained from my comments. I did not wish to suggest, and I do not believe this clause suggests, that any relief will be afforded a partner—innocent or otherwise—in regard to his responsibility and obligations in these circumstances. All I suggested was that the partner paid something in compensation to a party who had suffered as a result of a defalcation.

The Hon. C. E. Griffiths: He is compelled to.

The Hon. N. McNEILL: This is true, and I do not believe the clause suggests anything different from that. As a partner in the firm, the person must still accept his responsibilities. He must still accept all of the actions which may follow as the result of some defalcation by a member of his firm. There is no suggestion that the clause relieves him of this kind of responsibility.

The Hon. C. E. Griffiths: He is made to, irrespective of the clause.

The Hon. N. McNEILL: He must still face up to the dire consequences of the action of some other member of the firm. I cannot alter my point of view. I still support the measure. Some members seem to think that the inclusion of the clause will provide finance for some members of the legal profession, some way or other, in

the event of partners defaulting. I do not believe that is the position. It is certainly not stated in the wording of the clause. I truthfully cannot understand why this is still suggested, because the wording is quite plain in this respect. The actual wording to which I refer is, "a member of the partnership has made payment to a person as compensation for pecuniary loss." There is no suggestion that the person will be relieved of any responsibility as a result of some mishandling of funds by the firm.

The Hon. F. R. H. LAVERY: I want to go one step further than saying that the clause gives the opportunity for the remaining partner or partners to meet the responsibilities of the defaulting partner. The clients will be suitably compensated for the defalcation and the opportunity is given to the remaining partner to place his case before the trust. He can ask the trust whether it believes on his evidence that he is entitled to some compensation from the trust. He can say that his partner has not played the game, and indicate the amount of money he has paid to the client concerned—whether it is 20 per cent. or 100 per cent.

If the clause is not included, that person could be finished, because he would have to carry the whole loss himself. The reason why I support its retention is because the person will at least have the opportunity to state his case. I have great faith in the idea of the trust, and I am sure it will do the right thing.

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

Ayes—17

Hon. C. R. Abbey	Hon. L. A. Logan
Hon. G. E. D. Brand	Hon. G. C. MacKinnon
Hon. J. Dolan	Hon. N. McNeill
Hon. A. F. Griffith	Hon. T. O. Perry
Hon. E. M. Heenan	Hon. H. R. Robinson
Hon. J. Heitman	Hon. S. T. J. Thompson
Hon. E. C. House	Hon. J. M. Thomson
Hon. R. F. Hutchison	Hon. F. J. S. Wise
Hon. F. R. H. Lavery	*(Teller)*

Noes—8

Hon. V. J. Ferry	Hon. R. Thompson
Hon. C. E. Griffiths	Hon. H. K. Watson
Hon. J. G. Hislop	Hon. W. F. Willesee
Hon. R. J. C. Stubbs	Hon. F. D. Willmott
	(Teller)

Pair

Aye	No
Hon. F. R. White	Hon. H. C. Strickland

Clause thus passed.

Clauses 29 to 31 put and passed.

Clause 32: Trust to maintain accounts of Guarantee Fund—

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

> Page 20, line 28—Insert after the word "Board" the words "and the Minister shall have them presented to both Houses of Parliament".

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 33 to 39 put and passed.

Clause 40: Assisted persons to have practitioners of their choice—

The Hon. H. K. WATSON: I take advantage of clause 40 to refer to the Minister's remarks on one of the earlier clauses. He referred to the handing out of funds for legal aid. Hitherto I understand the legal practitioners who have undertaken legal aid cases have not done so with any great enthusiasm. As a result, the number has been more or less restricted. As a matter of fact, I understand the practice has been for a young practitioner to get a start by handling one of these cases.

If we look at clause 40, we will see it presents a very different picture. It provides that a panel shall be created. It could be anticipated that quite a few will be killed in the rush to get on to the panel, because it even gives a practitioner who is aggrieved by his exclusion the right to appeal to the court.

The Hon. A. F. GRIFFITH: The honourable member seems satisfied. He has had his say and drawn another red herring across the trail. I will let it go at that.

Clause put and passed.

Clauses 41 to 46 put and passed.

Clause 47: Society to maintain accounts of Legal Assistance Fund—

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

> Page 30, line 23—Insert after the word "Board" the words "and the Minister shall have them presented to both Houses of Parliament".

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 48 and 49 put and passed.

Clause 50: Rules—

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

> Page 31, lines 34 and 35—Delete the passage "on the recommendation of the Society,".

I feel that the originating power for making rules should rest with the Governor—that is, the Governor in Executive Council—and it should not be dependent or contingent upon a recommendation of the society. In my opinion, rules and regulations under the Act should be the prerogative of the Government.

The Hon. A. F. GRIFFITH: I am prepared to agree to the amendment but with the deletion of the words I think exactly the same thing will happen as if no amendment were made. The society will not make recommendations without conferring with the Minister about them. I think it is a lot to do about nothing but I am prepared to agree to it.

Amendment put and passed.

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

Page 31, lines 37 and 38—Delete the passage "on such a recommendation,".

This is a consequential amendment.

Amendment put and passed.

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

Page 32, lines 5 and 6—Delete the passage "on the recommendation of the Society,".

This, too, is a consequential amendment.

The Hon. A. F. GRIFFITH: I just take the opportunity to comment that the rules or the regulations will go to the Governor at the hand of the Minister, and the Minister will confer with the Law Society as to what the rules will be. The amendment does not mean a thing.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 51 put and passed.

Clause 52: *Reports*—

The Hon. H. K. WATSON: The amendment which I am about to move does not mean a thing, but I will move it just the same. I move an amendment—

Page 33, line 14—Insert after the word "year" the words "and the Minister shall present those reports to both Houses of Parliament".

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 53 to 56 put and passed.

Title put and passed.

Bill reported with amendments.

DRIED FRUITS ACT AMENDMENT BILL

Receipt and First Reading

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

PETROLEUM ACT AMENDMENT BILL

Returned

Bill returned from the Assembly without amendment.

BRANDS ACT AMENDMENT BILL

Receipt and First Reading

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

LEGAL PRACTITIONERS ACT AMENDMENT BILL (No. 2)

In Committee

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

Clause 1: Short title and citation—

The Hon. A. F. GRIFFITH: May I, with your permission, Mr. Deputy Chairman, use this clause for the purpose of making an explanation? I propose to ask the Committee to agree to the first five clauses. Mr. Watson has an amendment on the notice paper in regard to clause 6 and as, when dealing with the Legal Contribution Trust Bill, I foreshadowed an amendment to this measure, also in clause 6, I would like to give some thought to it. After clause 5 has been agreed to, I shall ask the Committee to report progress.

Clause put and passed.

Clauses 2 to 5 put and passed.

Progress

Progress reported and leave given to sit again, on motion by The Hon. A. F. Griffith (Minister for Justice).

PETROLEUM BILL

Second Reading

Debate resumed from the 9th November.

THE HON. F. J. S. WISE (North) [9.45 p.m.]: I seek a ruling from you on this Bill, Mr. President. I ask you, Sir, whether the Bill is in order in that it complies with section 46 of the Constitution Acts Amendment Act. Does the Bill require a Message from the Governor to permit of its proper introduction into Parliament?

President's Ruling

The PRESIDENT: Mr. Wise advised me that he intended to ask for a ruling of this nature, and it has therefore been possible for me to make a study of the Bill and its implications. In particular, Mr. Wise has asked—

(a) whether the royalty charges set out in the Bill can be regarded as a tax;

(b) whether the Bill should be supported by a recommendation from the Governor; and

(c) if one or both the foregoing conditions apply, whether the Constitution Acts Amendment Act has been contravened.

My understanding of a royalty in relation to mining is that it is a payment made by the lessee to the owner of the land, in this case the Crown, for the privilege of working the land in order to win particular minerals, and is paid on acreage, weight of recovery, or other method prescribed, payment being made upon the operation becoming productive. After due consideration, I feel that a payment in this form is not a tax as envisaged in section 46 of the Constitution Acts Amendment Act. If it were, it would, in accordance with subsection (7) of that section, have to be imposed by a separate Act.

The present provisions concerning royalties in the Mining Act were introduced in 1957 by a previous Government, together

with other amendments to the parent Act; the Petroleum Act of 1936, which is repealed by the Bill now under discussion, contains royalty provisions and I have been unable to find any case in which royalty has been charged or imposed by a separate Act. Therefore royalties have not previously been considered to be a tax.

On the question as to whether the Bill requires a Governor's Message, I find that there is no appropriation provided for in the Bill, and therefore no Message is necessary. On this point, I would also mention that the Act of 1936, which I have already referred to, was introduced without a Governor's Message.

I therefore rule this Bill to be in order.

Debate Resumed

The Hon. F. J. S. WISE: Although I may not agree with you, Sir, it has been my custom not to move to disagree with your ruling, and accordingly I abide by it.

The Act which this Bill repeals, and in some particulars re-enacts, was introduced into this Parliament by The Hon. Selby Munsie, Minister for Mines, in 1936, when he was—as I was—a Minister in the Willcock Government. I recall quite clearly the Cabinet discussions and the construction of the Act which this Bill now repeals and in some particulars re-enacts.

When the Bill which became the first Petroleum Act was introduced into this Chamber only two speeches were made on the second reading. Indeed, only three speeches were made on its introduction in the Legislative Assembly. It was a Bill designed to supersede the provisions of the Mining Act, 1920, which provided for the concessions and the arrangements necessary to encourage the search for oil in those far off days.

It was obvious to the Government of the day that the provisions in the Mining Act, 1920, after having been in operation for 16 years, gave no incentive or encouragement to capital internally in Australia—and particularly within Western Australia—to be used in the search for oil. It certainly gave no encouragement for capital from overseas to engage in the search for oil.

It was obvious that unless some more generous conditions were offered, and the provisions in the Statute made more attractive, that the chance of obtaining outside capital for oil search would continue to be remote.

It was said by the Minister for Mines in those days that the purpose of the Bill was to liberalise the provisions of oil legislation. So we have had an Act in operation since 1936 which to this day—with a few minor amendments—has sufficed to see the great step forward, and the spending of a large amount of money—tens of millions of dollars—by oil companies under the Petroleum Act, 1936.

How much more we know today compared with the period when the first Act was introduced! At that time the Government relied on the advice of that remarkable geologist, Dr. Wade, who recommended to the Government and to interested parties that the search for oil in the Kimberley was likely to be fruitful because of the existence of certain dome-like forms in that region. Indeed, the North West Cape was also mentioned.

I think it is relevant and important to observe that in the period between 1920 and 1936 there were two companies operating in the search for oil. One of these companies was Oakes Durack, which operated a mine near the Negri River. It was sponsored by that remarkable man M. P. Durack. In that period £131,000 was spent—that is, in 16 years. That was big money in those days. The expenditure was £131,000 of Western Australian money.

It is worth mentioning that signs of oil were found at Mt. Wynne, between Derby and Fitzroy Crossing. Signs of oil were also found south of the Fitzroy River. It is true that these were remote signs, but they were an indication that something could be found within that region.

This legislation before us follows the Act which, I would say, showed a considerable amount of vision. It has been adapted on the experiences of recent years and on the basis provided by the 1936 Act. Members will find as a footnote on the front page of the Bill before us references to marginal notes; and those marginal notes refer to the sections of the first Petroleum Act of Western Australia.

I think there is only one member in this Chamber today who heard the original Act being debated—I refer to Mr. Heenan. Considerable debate took place in Committee on that Bill. A very lengthy speech was made by Mr. Seddon, who spoke for 1½ hours in Committee and was successful in making many amendments, some of which are included in the Bill before us.

I refer in particular to the responsibilities of the permittees, and to the responsibilities of those people who successfully applied for, and who operate within leases of varying dimensions, as mentioned by the Minister. Looking closely at the Bill before us, and comparing it with somewhat similar legislation in other States it seems to me to be a realistic approach to the furtherance of oil search in Western Australia. It does concede to the permittees great benefits in helping them to succeed in their search. It also imposes a charge at the well head on production—that is to say, it charges a royalty in varying degrees from 5 per cent. up to 12½ per cent.

The Act which is superseded by this legislation has a range of from five to 15 per cent. To some people that may sound a very low royalty to charge on production; though I do not share that view. I think the most important thing Western Australia can obtain from its natural

resources in oil at this stage is to give encouragement and the possibility of a fresh impetus for locally produced wealth from this source. Other charges, and other benefits will follow as a natural corollary.

Petroleum products obtained in this State, from our own wells, and used in the diverse industries associated with petroleum products, could in themselves mean enormous wealth being generated in Western Australia.

Every man, woman, and child in this State, in their daily lives, is influenced in some way by the use of petroleum products, whether it be in the transportation of goods, or in the use of the many commodities from the industries ancillary to the primary industry of petroleum production. There are numerous channels from which and through which everything used in our daily lives passes. Even the clothes we wear, the utensils in the home, the coming to our daily avocation, the supply and availability of electricity, and transportation of all kinds have some influence or other exerted upon them by the use of petroleum products.

In this State, we must look to tremendous internal use of our own production, and not be like the kingdoms in the Arabian countries—kingdoms with untold wealth, too great for them to use—where the wealth is from the production of oil rather than from the products of oil. I regret that I have to concede to the Commonwealth the amount which it skims off the production from within a State. So I repeat: I am inclined to err—if it is something that is wrong—on the low side in regard to royalties to be charged. There will be an enormous economic contribution to this State if another oil field is found in the next decade or before, and other fields follow. As mentioned by my leader the other night, these fields could be on the horizon near to Perth, not far off the shore; colossal deposits could be found adjacent to the coastline of Western Australia.

Therefore, this Bill, in the interests of the State, is second to none in importance. As a duty, in regard to my study of the Bill, I raised the point referred to you, Mr. President. That was my duty, but I am pleased that the present Minister for Mines introduced this Bill himself. This Minister for Mines has been the one blest with the good fortune of being a Minister when history is being made in many avenues of mineral production. However, if my reaction to publicity is the reaction of most people, it seems to me that the Minister for Mines is in the also-rans when mention is being made of the achievement of the State through mineral resources.

The Hon. A. F. Griffith: I am a humble person.

The Hon. F. J. S. WISE: Someone else takes or gets the credit. Having spoken a few sentences on what I consider to be the opportunity within the State to progress from the discovery of oil, I will not dilate on the many industries which could come from our being in a state of self-sufficiency within Australia; but like all Western Australians, I would hope that we are the State which has the predominance in production in the very near future.

The importance of this Bill perhaps lies in the ability within its terms to encourage very large sums of money—the sort of money that Australia of itself has not in liquid form and in the accessible form in which it is coming to us now that oil has, in fact, been successfully discovered in Western Australia.

In respect to you, Mr. President, I will not touch on the aspect of this Bill which has been determined by you. Suffice to say, I would like the Minister in his reply to advise why, in this Bill, there is a separate division dealing with fees and royalties—division 7—when in a prescribed form clauses 31, 52, 58, 61, and 64 all deal similarly with the provisions of the division dealing solely with fees and royalties from page 113 onwards. There must be a special reason for it, but I do not know what it is.

It is not my wish to traverse the ground dealt with by my leader the other evening. This Bill differs in many particulars from the Bill dealing with oil to be found in offshore leases. It has no reference to the controlled pipelines and the like; and it has no reference to a provision for a tax on the value of oil—*ad valorem* duty. That, as the Minister told us, will be introduced in a separate Bill in another place.

Therefore, without delaying the House, and without going into more detail, I support the measure as it stands and hope it does mean something of very great importance to Western Australia in the control of the production of petroleum and its products.

THE HON. N. E. BAXTER (Central) [10.8 p.m.]: There is only one small query I wish to raise in regard to this Bill. Clause 3 states that the Petroleum Act, 1936, is repealed, and this repeal will take place on dates fixed by proclamation. It struck me that we have the Petroleum Act of 1936 and, since that time, a number of amendments to this Act have been made—one quite recently. I was wondering why the Petroleum Act, 1936, was repealed, instead of the Petroleum Act 1936-1967, because we amended the parent Act this year. I would like an explanation from the Minister.

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Mines) [10.9 p.m.]: I am very pleased with the remarks made by Mr. Wise when dealing with this Bill. Naturally I was anxious to introduce the measure into this Chamber, because it is something that emanated from my own

department. I can only heartily endorse the remarks of Mr. Wise when he said that the Bill was of the utmost importance. The likelihood of the honourable member, because of his vigilant approach to this matter, in asking you, Mr. President, for a ruling as to whether the Bill was in order, occurred to me, and I was careful to get the advice of my officers in the Crown Law Department to see whether, in fact, this Bill required a Message. I can only compliment you, Sir, on the ruling you gave tonight, because it confirms the opinion given by my Crown Law Officers.

When introducing the Bill, I foreshadowed a Bill to provide for the *ad valorem* duty would have to be introduced in the Legislative Assembly. I naturally held this Bill up; and did not ask my colleague, the Minister for Lands, who represents me in the Legislative Assembly, to introduce the other Bill at this point of time, because I thought it would be better to do so when the Legislative Council had passed this Bill. He will then have the two Bills in the Legislative Assembly and they can connect one with the other.

The other Bill to be introduced in the Legislative Assembly deals with the question of *ad valorem* duty—that is, duty accruing to the value of transfers. When dealing with the offshore legislation, the *ad valorem* Bill was introduced in the Assembly and sent here with the offshore Bill. That is the only explanation I can give to Mr. Wise.

In relation to the query raised by Mr. Baxter that clause 3 refers only to a repeal of the Petroleum Act, 1936, I suggest that all of the amendments to the Act will be repealed. Many of the amendments to the 1936 Act are rewritten in detail in some of the clauses of this Bill. I cannot give any explanation beyond that.

I think this is essentially a Committee Bill, and when we come to clause 8 I would like to give Mr. Wise some information.

The Hon. F. J. S. Wise: If you haven't the information I can give it to you.

The Hon. A. F. GRIFFITH: Then we both have the information as to what it means. I conclude by saying this Bill is intended to be an instrument that will encourage the further search for oil in Western Australia. As I have said previously, I believe this is the only way we can reach a point where we will be self-sufficient, or where we will have more oil discovered in Western Australia than we now have. It is also the only way to encourage people to search for oil. I wholeheartedly agree with the attitude of Mr. Wise in respect of royalty. The amount of money that has to be expended in the exploration and the exploitation of oil is positively tremendous. Since the risks are great and the capital outlay is huge, the return for such risk and such capital has to be attractive in order to get the people with the money and the desire to help us in the search for hydrocarbons in Western Australia. I think this Bill will have that effect.

It will be some time before we can get the measure under way—it may be some months—but with the agreement of Parliament to the other small Bill, and the indication given tonight by you, Mr. President, by way of a message that the Legislative Assembly has agreed to that Bill, I will be able to set about making arrangements for small relinquishments of permit areas that have been held for some considerable time.

Question put and passed.

Bill read a second time.

In Committee

The Chairman of Committees (The Hon. N. E. Baxter) in the Chair; The Hon. A. F. Griffith (Minister for Mines) in charge of the Bill.

Clauses 1 to 7 put and passed.

Clause 8: Points, etc., to be ascertained by reference to Australian Geodetic Datum—

The Hon. A. F. GRIFFITH: This clause is similar to a clause in the offshore Bill. Mr. Wise asked me what clause 8 really meant. From time to time, it will be necessary to determine various positions within the State in relation to leases, and also in relation to offshore drilling on the continental shelf. Clause 8 determines how points will be ascertained by reference to the Australian Geodetic Datum. The datum is the same as that set out in the offshore Bill and it is the point which all the surveying authorities of the States and the Division of National Mapping have agreed upon.

The place agreed upon is the Johnston Geodetic Station situated in the Northern Territory of Australia. I am not able to say exactly where the Johnston Geodetic Station is, but I understand it is in the Northern Territory. Apparently it is the focal point from which all the States in the Commonwealth have agreed that the datum point should be taken. It is reasonable that we should all use the same point when it is necessary to plot the position of any well.

The Hon. J. DOLAN: I agree with the Minister's explanation of the clause. The earth is not a sphere, because a sphere is the equivalent of a billiard ball. If a billiard ball could be flattened at the top and the bottom, then one would have an example of the shape of the earth. The equatorial radius of the earth is 6,378,160 metres. It will be seen, of course, that the radius from the centre of the earth to the north and the south is less, and the difference between the two measurements is given as a fraction of the equatorial radius, and that fraction is $^{1}/_{298.25}$. That is one point I would make.

The Johnston Geodetic Station in the Northern Territory of Australia is a tech-

nical necessity. When a point on the earth's surface has to be fixed, and this is beyond the scope of ordinary scientists, this station can do the job.

Geodesy is a branch of applied mathematics relating to the surveying and measurement of the earth's surface, involving allowance for its curvature. At the Johnston Geodetic Station there are men who specialise in this particular work. Should there ever be a dispute as to boundaries, it can be guaranteed that these people will settle it.

Clause put and passed.

Clauses 9 to 153 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by The Hon. A. F. Griffith (Minister for Mines), and transmitted to the Assembly.

EDUCATION ACT AMENDMENT BILL (No. 2).

Second Reading

THE HON. L. A. LOGAN (Upper West—Minister for Local Government) [10.35 p.m.]: I move—

That the Bill be now read a second time.

This Bill has been brought down to give effect to an undertaking given by the Premier, when introducing the Estimates, that a tuition fee subsidy of $10 a year would be paid to independent schools in respect of primary pupils.

The Bill repeals the existing section, which was enacted in 1965, to provide for tuition fee subsidies—then expressed in pounds—for secondary students and reenacts the section to include the payment to the schools in respect of primary pupils.

The Act, as amended, will enable payment of tuition fee subsidies to be paid to all independent schools; that is, in respect of primary pupils $10 each per annum; secondary students in years one to three, $30 each per annum; and secondary students in years four to five, $36 per annum.

When introducing this measure in another place, the Minister for Education remarked that during the late thirties the State undertook to train sisters for convent work. In 1941, free travel was made available to independent school pupils using the department's school buses. It was not until 1955 that Parliament recognised assistance to independent schools by amending the Education Act of 1928 to permit payment of subsidies on one or two teaching aids; since when assistance to independent schools has increased considerably.

It is estimated that from January next year independent schools will receive State assistance to the equivalent of $34 per pupil per year. This assistance is given in recognition of the valuable services being provided by the schools and to assist them in meeting their increasing costs.

However, I would remind the House that independent schools are there of their own free will and may withdraw from the field at any time. The Government, on the other hand, is bound to provide suitable education and therefore the State system must receive first priority when Government funds are being allocated. Nevertheless, it is the Government's policy to provide aid where practicable to independent schools, and everything possible is being done commensurate with the funds available to assist further those schools at which about 25 per cent. of the State's school children are being educated.

Debate adjourned, on motion by The Hon. J. Dolan.

STAMP ACT AMENDMENT BILL

Second Reading

THE HON. A. F. GRIFFITH (North Metropolitan—Minister for Mines) [10.38 p.m.]: I move—

That the Bill be now read a second time.

This Bill to amend the Stamp Act, Mr. President, is one introduced by the Treasurer in another place, arising out of the Budget. The measure fulfils an undertaking given when legislation to change the rate and method of stamp duty on receipts was introduced last session.

Generally, the new system has worked satisfactorily and arrangements for payment of duty by periodic returns have been well received by the business community.

Nevertheless, during the first few months of operation, a number of inequities became evident and provision is made in this Bill to correct them.

The amending Bill, in addition to making provision for changes in sections of the Stamp Act governing the payment of duty on receipts, contains clauses varying exemptions from other types of duty and making a minor correction to a section dealing with transfers of marketable securities.

The specific items dealt with in the Bill concerning stamp duty on receipts are—

Rates of duty.
Additions to categories of persons paying duty on total receipts.
Exemptions for transactions in Government and short term securities.
Extension of use of the return system.
Additions to exempt receipts.
Banking transactions.
Foreign companies.

In dealing with each of these items in the order mentioned, I desire to say that in respect of the first, the main proposal is to eliminate the 3c and 2c rates and place receipt duty on a uniform flat rate of 1c

for every $10 of total receipts, thus removing the criticism that stamp duty on receipts is discriminatory. This amendment will meet requests for a reduction in the rates of duty and, more importantly, will remove anomalies which have occurred, particularly in respect of licensed persons.

Under the existing provisions, an agent or employee licensee is subject to the 3c rate of duty on all of his personal receipts. However, in some cases, the person receiving the proceeds of sales effected in the business the licensee conducts on behalf of that person, is required to pay duty at only the 1c rate.

Provision is also made, in addition to reducing the rate in these cases, that all owners of licensed businesses pay stamp duty on all of their receipts. In some instances, enterprises are carrying on one of the activities which now attract the 2c or 3c rate of duty on receipts. Although the receipts from these activities represent only a very minor part of the total receipts of the businesses concerned, it has resulted in the owners of those businesses being obliged to pay the higher rate on all of their receipts instead of the 1c rate for which they would have otherwise qualified.

Another anomaly, to which attention has been drawn, concerns milk vendors. Under existing legislation, sole traders are at an advantage in comparison with registered businesses in that the sole trader enjoys an exemption of duty on receipts of less than $10. In order to remove this inequity, which arises entirely from an oversight when the 1966 amendments were framed, provision is included in the Bill to define milk vendors as persons who are required to pay duty on all receipts.

There have been complaints of discrimination for the reason that the State Electricity Commission is not obliged to meet the cost of stamp duty imposed on receipts; other fuel suppliers are. Those voicing complaints have also drawn attention to provisions under which both the Rural and Industries Bank and the State Government Insurance Office pay stamp duty on receipts.

In this connection, I might mention that in Victoria a tax of 3 per cent. is levied on electricity and gas sales. Members will no doubt appreciate that this charge is taken into account by the Commonwealth Grants Commission when assessing the special grant to the State.

Accordingly, it is now proposed to require the State Electricity Commission to pay stamp duty on its receipts in future and the Bill provides for this.

Receipts issued for proceeds received from sales of marketable securities are at present subject to duty. Attention has been drawn to the adverse affect of this charge on sales of securities issued by the Commonwealth and other Government authorities. Advice given by bankers and brokers indicates that the charge is limiting short term investments in these securities.

There is no doubt it is in the State's interest to maintain a strong market in Government securities and provision has therefore been made to exempt from duty receipts given for proceeds from sales of these securities.

Another type of investment which is subject to disproportionately high duty is short term deposits. In respect of these it is proposed that receipts for any amount paid to or received from any person in respect of a deposit or loan, be exempted from duty where that deposit or loan is returned within 12 months or less.

Since the new system for payment of stamp duty on receipts has been operating, a number of applications has been received requesting that those now specified in the Act be permitted to use the return system of payment, should they so wish.

As it was considered desirable to place some limit on the volume of returns to the Stamp office, no provision was made in the Act to allow persons entitled to the exemption on receipts of less than $10 each to submit and pay duty by returns.

However, in the light of recent experience, it is felt no real objection can be upheld in allowing a person to use the return system, where he is prepared to forego the exemption on receipts of less than $10 each and the volume of his transactions justify his use of this system.

So provision has been made in the Bill for the commissioner to permit persons other than those now specified in the Act to make use of the return system.

Local government authorities have requested complete exemption of all their receipts from stamp duty. The exemption of local authorities' receipts is confined under existing law to those given for rates, fees, licenses, or grants from the Crown.

All other receipts are subject to duty and, although these are few in number, they do result in some administrative difficulty, I understand, particularly in cases where they are issued by junior staff.

As the total amount of revenue involved is small, it is proposed to accede to the request for exemption of all receipts issued by local government bodies.

The activities of co-operative credit societies have increased in recent years, they being popularly known as credit unions. Such societies are concerned mainly with assisting their members regularly to save sums of money and, when necessary, to provide them with low-cost loans and financial advice. All earnings are returned to members in the form of interest on their savings. These societies are usually formed from persons working for the same employer, church groups, or similar organisations.

Representations have been made for exemption from stamp duty for receipts given by credit unions and receipts given

by members of those unions. There is justification for granting this request for exemption as receipts given to or by friendly societies and building societies are exempt and no duty is imposed on receipts for deposits made to or withdrawals from savings bank accounts. Provision is included in the Bill to provide the exemptions sought by local authorities and credit unions.

Prior to the passing of the 1966 legislation affecting the Stamp Act, section 101 of the parent Act provided that where a payment was made by the deposit of money in a bank by any person to the credit of some other person, receipt duty had to be paid at the time of making the deposit.

This provision was repealed by the 1966 enactment, because it tended to complicate the return system and could result in people paying duty twice on the one amount. It was understood at the time the provision was repealed that the person receiving the credit would not be able to escape paying receipt duty under the amended law. However, it now transpires that they do so escape.

It was never intended that firms and persons should be able to avoid paying stamp duty on receipts by simply arranging for money due from other persons to be deposited in their bank accounts. The Bill accordingly contains clauses to rectify this position and ensures that stamp receipts are issued in these cases.

The intention of the legislation as existing was to make amounts received by banks from interest earnings and other charges subject to receipt duty; and whilst this is being paid in some cases, it is not in others and the Act is not positive in the matter.

In order to place the question of payment of duty on receipts issued by banks for charges beyond dispute, it is proposed to insert a section specifically dealing with this matter, and to repeal and re-enact the provisions concerning exemptions of certain banking transactions.

These provisions are designed not only to ensure the payment of receipt duty, as originally intended, but to preserve the exemption for deposit and withdrawal transactions by an individual on his own banking account.

The definition of a company now given in the second schedule to the Stamp Act is not sufficient to embrace a foreign company. This inadequacy could result in foreign companies avoiding duty and this would be completely unjustified. To rectify the situation, it is proposed to add the appropriate definition to the second schedule to the Act.

The proposed amendments which I have explained all concern the provisions relating to stamp duty on receipts and, if agreed to, will result in a net annual reduction in revenue collections of an estimated $430,000 based on the current level of activities.

Turning now to other sections of the Stamp Act, which it is proposed to amend, members will recall that, during the last session of Parliament, uniform legislation for the transfer of marketable securities was enacted.

This legislation required amendments to the Stamp Act, and one of the amending provisions purported to exempt the sale or purchase of marketable securities of the State Electricity Commission of Western Australia or other prescribed authorities from conveyance stamp duty.

The amendment passed stated the exemption as—

> A sale or purchase of marketable securities by the State Electricity Commission of Western Australia . . .

instead of—

> A sale or purchase of marketable securities of the State Electricity Commission of Western Australia . . .

The Bill contains a clause to correct this error in wording.

The exemption from conveyance stamp duty on transfers of securities issued by the State Electricity Commission and other prescribed authorities, which I have just mentioned, is restricted under the existing law to transactions conducted through brokers. If a sale of these securities is negotiated in any other way, say, by way of private treaty between two individuals, duty is payable.

Because it is desired to encourage investment in authorities such as the State Electricity Commission, and as exemption is already given to transactions effected through brokers, it is proposed to extend the exemption to transfers made other than through brokers. The Bill provides accordingly.

As the Act now stands, no stamp duty is paid on the transfer of scrip or shares of an incorporated mining company carrying on the business of mining in this State. This exemption may have been justified many years ago, but there is no reason why it should continue to apply today when there is a large demand for these shares. It is therefore proposed to abolish the exemption so that on and from the 1st December next mining shares will attract duty at the same rates as other industrial share transfers.

The only other provision contained in this measure concerns a proposed new exemption for securities given for loans, the proceeds of which are to be used for charitable or similar public purposes. Its inclusion arises from representations made on behalf of a parents and citizens' association.

In the past no exemption has been provided for this type of security document, mainly, I believe, because only a limited

number of borrowings is undertaken by charitable and similar organisations. However, the amount of duty involved is of a minor nature and it is desired to encourage these bodies in the community projects they undertake. Therefore, provision has been made in the Bill for the Treasurer to grant exemptions.

In thus concluding my explanation of the many provisions contained in this measure, I advise members that they are submitted in conformity with the undertaking given to review the operation of the new receipt duty provisions; and the main purpose of these amendments is to remove inequities and difficulties encountered during the initial period of operation of the provisions which, in the main, were introduced in the previous session of Parliament.

I commend the Bill to members.

Debate adjourned, on motion by The Hon. F. J. S. Wise.

House adjourned at 10.53 p.m.

Legislative Assembly

Tuesday, the 14th November, 1967

The SPEAKER (Mr. Hearman) took the Chair at 4.30 p.m., and read prayers.

SITTINGS OF THE HOUSE

Closing Days of Session

MR. BRAND (Greenough — Premier) [4.37 p.m.]: With your permission, Mr. Speaker, may I remind the House that we decided to sit at 2.15 p.m. tomorrow, and also at the same time on the following Wednesday, with the possibility of sitting at 11 a.m. on Friday, the 24th November.

BILLS (3): INTRODUCTION AND FIRST READING

1. Alumina Refinery Agreement Act Amendment Bill.

   Bill introduced, on motion by Mr. Court (Minister for Industrial Development), and read a first time.

2. Reserves Bill.

   Bill introduced, on motion by Mr. Bovell (Minister for Lands), and read a first time.

3. Public Works Act Amendment Bill.

   Bill introduced, on motion by Mr. Ross Hutchinson (Minister for Works), and read a first time.

QUESTIONS (5): ON NOTICE

NORTH DIANELLA SCHOOL

Complaints against Teaching

1. Mr. TOMS asked the Minister for Education:

   (1) Has he been made aware of some dissatisfaction by parents of children attending the North Dianella (or Dianella Heights) State School at the lack of progress being made by their children, particularly in the subject of mathematics?

   (2) How many applications have been made by parents to have their children transferred to other State schools?

   (3) Following an inquiry reported to have been made, when will the research and curriculum officer visit the school and discuss the matter with the interested parents?

   Mr. LEWIS replied:

   (1) A section of parents expressed dissatisfaction during second term. A senior district superintendent investigated and reported that these complaints were unfounded, that very satisfactory overall progress was being made and that courses in mathematics were properly planned to ensure that senior pupils would be well-equipped to pursue sound secondary courses.

   (2) Three.

   (3) A departmental officer is to attend a parents and citizens' association meeting before the end of this year to talk on educational developments in curricula content and teaching techniques.

WATER SUPPLIES AND SEWERAGE

Use of Plastic Pipes and Fittings

2. Mr. WILLIAMS asked the Minister for Water Supplies:

   (1) What experiments and/or research are being conducted in this State to utilise new materials —for example, plastics, P.V.C., etc.—in water reticulation, fittings, sewerage lines, and connections?

   (2) In what areas are these being carried out?

   (3) When did they commence?

   (4) What plastic, P.V.C., etc., fittings have been approved for use?

   (5) Are other States, C.S.I.R.O., and private concerns conducting experiments and research; if so—

      (a) which States;

      (b) what knowledge has the department of these experiments and/or research?