for by the Act. If we attempt to reduce the age to three months we will merely add people to the ranks of those who do not now comply with the Act. The answer to the problem is not to reduce the age at which cattle may be branded, but to enforce more rigidly the present provisions of the Act.

When Mr. Jones introduced the Bill he quoted the case of a woman who was injured, but could not get any compensation. I take it that the woman was injured in an accident in which a beast was involved. Mr. Jones did not say whether the beast was under the age of 12 months, but in all probability it was not. The identification of a beast is not the only thing when we are dealing with an accident that has happened on a road, because the owner of the beast can plead many excuses. For instance, a limb blown over one of his fences completely lets him out. So, in order to ensure that an accident victim shall receive compensation, we need a good deal more than the mere identification of the beast.

The people who are careless with their cattle are not complying with the Act now. The beast that was concerned in the accident mentioned by Mr. Jones was probably well over the age of 12 months and should have been branded, but was not.

The Hon. F. J. S. Wise: Do you think there is enough scrutiny at the saleyards?

The Hon. F. D. WILLMOTT: No; there is definitely not enough. I said just a moment ago that plenty of cattle are being sold in saleyards that are not branded—cattle well over the age of 12 months, which is the compulsory age now. I feel that the answer to this problem is to enforce the Act as it is. When we have succeeded in doing that, it will be soon enough to talk about lowering the compulsory age.

There are other difficulties I can see in regard to this matter. In the province I represent, many owners of cattle—particularly those in the lower south-west—take their cattle on to the coast during certain months of the year; and the cattle run, unfenced, together. They might for five or six months remain on the coast where there are no facilities for mustering or branding. So members can bet their lives the owners of the cattle will not attempt to deal with the beasts until they get them back on to the farms. These owners will be additional to those who are already not complying with the Act. So we will be adding to our difficulties, not subtracting from them, if at this stage we lower the age.

In conclusion, I feel that Parliament would be foolish to pass laws which will be difficult to enforce; and that is what we will be doing if we reduce the age to three months. I repeat that the law is not being enforced in regard to the Brands Act. When we have succeeded in policing the Act as it stands, we might be able to give consideration to lowering the compulsory age. I think we would be foolish to do so before.

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

ADJOURNMENT OF THE HOUSE: SPECIAL

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

That the House at its rising adjourn until 2.30 p.m. tomorrow.

Question put and passed.

House adjourned at 6.8 p.m.

Legislative Assembly

Thursday, the 17th November, 1960

CONTENTS

The SPEAKER took the Chair at 2.15 p.m., and read prayers.

QUESTIONS ON NOTICE

1. *This question was postponed.*

MANDURAH OCEAN BAR

Closure During Summer Months

2. Sir ROSS McLARTY asked the Minister for Works:

(1) Have any representations been made to him or to his departmental officers as to the likelihood of the Mandurah ocean bar closing during the summer months?

(2) If so, will early action be taken to endeavour to keep the bar open during the Christmas holidays and the summer months, thereby assisting the fishing industry and numerous holiday-makers?

Mr. WILD replied:

(1) Yes. Mandurah Road Board officers and departmental officers keep in close touch. There is a possibility of the cut being closed during the summer months.

(2) Should the cut close, it is unlikely that it could be opened this summer as, even if finance could be provided, suitable equipment would not be available as it is already committed elsewhere.

MAGNESITE

Tonnage Recovered and Exported, Price, etc.

3. Mr. KELLY asked the Minister representing the Minister for Mines:

(1) What tonnage of magnesite was recovered in Western Australia in the years 1956, 1957, 1958, 1959, and 1960?

(2) What tonnage was exported in each of those years?

(3) What firm or firms handled the export?

(4) To what countries was the ore shipped?

(5) What is the present state of the export market?

(6) What was the export price, f.o.b. Fremantle, in each of the years mentioned in No. (1)?

(7) What price was realised overseas?

(8) Is local demand keen?

(9) How many firms treat magnesite in Western Australia?

(10) What are the chief uses in Western Australia?

(11) Where are the main deposits located?

Mr. ROSS HUTCHINSON replied:

(1) 1956—838 tons.
1957—Nil.
1958—Nil.
1959—18.5 tons.
1960—Nil.

(2) 1956—Nil.
1957—Nil.
1958—Nil.
1959—18.5 tons.
1960—Nil.

(3) Basic Materials Co. Pty. Limited.

(4) United States of America.

(5) Not very active. The total Australian production in 1958 was 69,030 tons and a further tonnage of 8,875 tons was imported. Most of the production is purchased by direct negotiation, and prices are not quoted. A little is exported to New Zealand. Production has started at Ravensthorpe to supply a contract with an American company.

(6) 1958—£4 per ton f.o.b. Esperance.

(7) Not known.

(8) Very little used locally.

(9) None.

(10) Flux for iron ore.

(11) Bulong, Coolgardie, Ravensthorpe, Mt. Hunt.

VESTEYS' LEASES

Resumption

4. Mr. RHATIGAN asked the Minister for the North-West:

(1) Has he read an article on page 52 of *The West Australian* of the 8th November, 1960, headed, "Development in the North Makes Progress," which states, among other things, that the Government has decided to resume land held under lease by Vesteys Pty. Ltd.?

(2) If so, how does he reconcile his answer to my question of the 2nd November, 1960, and the answer given to me by the Minister for Lands on the 27th October, 1960?

Cost of Reclamation and Future of Land

(3) Is it correct, as stated in the article, that the reclamation will cost £150,000 over five years, and does this amount include subdividing the area into 18 paddocks involving the erection of 210 miles of fencing?

(4) If not, what would be the extra cost of the subdivision and fencing, and who would pay for it?

(5) When reclamation is completed, will this land be returned to the original leaseholders?

(6) If so, what will the conditions be?

(7) If the land is not to be returned to the original leaseholders, will it be made available for public selection?

(8) How is the carrying capacity of at least one beast to 10 acres arrived at? Is this just a hypothetical figure, or one which has

been arrived at as a result of experiments carried out by officers of the Department of Agriculture in the area in question?

Tabling of Papers

(9) Will he lay on the Table of the House all papers in connection with this subject?

Mr. COURT replied:

(1) Yes. To the best of my knowledge the article is not an official Government statement and the Government can accept no responsibility for its detailed contents.

(2) The answers referred to are correct answers.

(3) to (7) Answered by No. (2).

(8) Answered by No. (1).

(9) Consideration will be given to the tabling of papers when finalisation is reached on current negotiations.

5. and 6. *These questions were postponed.*

PUBLIC BUILDINGS

Government Fees to Private Architects

7. Mr. TONKIN asked the Minister for Works:

(1) What is the total amount of money which has been paid or is due to be paid to private architects by the Government since it assumed office for work performed in connection with the planning or construction of public buildings?

Delay in Completion of Contracts

(2) In connection with what number of public buildings designed by private architects have the contractors failed to complete the buildings within the specified time for construction?

Mr. WILD replied:

(1) £90,650.

(2) Seven were completed after the contract dates out of 27 jobs placed with private architects.

BILLS (3)—FIRST READING

1. Agriculture Protection Board Act Amendment Bill.

On motion by Mr. Watts (Attorney-General), Bill introduced, and read a first time.

2. Fremantle Harbour Trust Act Amendment Bill.

On motion by Mr. Wild (Minister for Works), Bill introduced, and read a first time.

3. Land Tax Assessment Act Amendment Bill.

On motion by Mr. Brand (Treasurer), Bill introduced, and read a first time.

WORKERS' COMPENSATION ACT AMENDMENT BILL

In Committee

The Chairman of Committees (Mr. Roberts) in the Chair; Mr. Perkins (Minister for Labour) in charge of the Bill.

Clauses 1 to 3 put and passed.

Clause 4—Section 8 amended:

Mr. EVANS: During the second reading stage of this Bill various members spoke on the proposed new subsection (1a) of section 8, which concerns the deletion of three provisions relating to the diseases of miner's phthisis, pneumoconiosis, and silicosis. A doubt was expressed whether the provision in this Bill would achieve the purpose of removing the bar from those persons who are at the present time—that is, before the coming into operation of this amendment to the Workers' Compensation Act—already disabled by any one of those diseases mentioned.

I would mention the goldmining case concerning silicosis—namely, the case of Kraljevich and Lake View & Star Limited—which went to the High Court of Australia. The ruling given in that case was that the benefits to be gained from an amendment to the Workers' Compensation Act would be available only to a person whose disability was suffered after the coming into operation of the Act itself.

Kraljevich's disability had occurred prior to the amendment of the Act in 1944, but his application for redemption of the moneys due to him was made seven months after the coming into operation of the 1944 amendment to the Workers' Compensation Act. He was unsuccessful in the Perth Court; the Full Court of Western Australia; and, finally, at the High Court hearing.

Therefore it is believed that the *ratio decidendi* of the Kraljevich and Lake View & Star Limited case would apply to the provision before us; and there would be a need, if the purpose for which we all believe this provision exists is to be achieved, for the provision to be amended. So I intend to move the amendment which stands in my name on the notice paper. However, I desire to have it placed in a different part of the Bill from that referred to on the notice paper.

Clause 4 states, among other things, that subsection (1a) is the essence of the provision. Two governing paragraphs—namely (a) and (b)—follow; and I intend to move that the proviso I have on the notice paper be added after the word "nature" in line 13 on page 3.

Mr. Perkins: I have a drafting amendment in line 11, page 3.

Mr. EVANS: Very well.

Mr. PERKINS: I wish to thank members who have placed amendments on the notice paper, because it gives us a better chance to check the effects of those amendments. It has now been found that the wording of the clause can be somewhat clarified by a small drafting amendment. I move an amendment—

> Page 3, line 11—Insert after the word "not" the words "during that period or those periods."

This will not affect the sense of the clause in any way, but may save confusion.

Amendment put and passed.

Mr. EVANS: I move an amendment—

> Page 3, line 13—Add after the word "nature" the following proviso—
>
> > The provisions of this section shall extend to the case of any worker whose disablement or death, caused by silicosis, pneumoconiosis, or miner's phthisis due to the nature of any employment in which such worker was at any time engaged, has occurred prior to the coming into effect of this Act, but more than three years after such worker ceased to be so employed.

Mr. PERKINS: There was some considerable discussion about the effects of this clause, and the member for Kalgoorlie dealt with the question in some detail. I gave a promise, when speaking to the second reading, that I would have this position carefully examined. After an examination by the Crown Law Department, it seems that under the Act as it stands at present claims for silicosis can be made in respect of workers still in mining or other silica-producing industries, or who either die or become disabled from silicosis within three years of leaving such industry. Claims in respect of those who either die or become disabled more than three years after leaving the industry are barred.

In the proposed amendment in the Bill —not the amendment of the member for Kalgoorlie—claims can succeed in respect of (1) all workers as mentioned; and, (2) all workers who have left the industry or who leave in the future, and who die or become disabled from silicosis, no matter how long after they leave the industry death or disability occurs. The only claims excluded are those in respect of workers who have died or become disabled prior to the proclamation of the amending Bill, but longer than three years after leaving the industry.

The fears which were expressed by the members for Boulder and Kalgoorlie are real fears, in that it is obvious that some cases they have in mind will be barred, particularly where death has occurred prior to the proclamation of this amending Bill.

The position is a little more obscure with disablement. There is always some uncertainty as to the moment disablement occurs; and while with a worker who becomes seriously ill and unable to work, it is clear that the disablement has taken place, it seems he will not be benefited as the Bill stands at present. On the other hand, no doubt there are some men who are still working because they are unable to get assistance under the provisions of the Act. I have no doubt, too, that some of those cases will succeed in coming under the Act in the future because by one manner of means or another their disablement will have occurred after the proclamation of this Bill.

I do not want members to have any misapprehension on this point, because I realise it is of great importance in the industry; and it is undesirable that there should be any confusion on the part of either employers or employees. One of the difficulties is that workers' compensation is based on compulsory insurance, and premiums are fixed and reserves established on the basis of liability as laid down by the Act from time to time. It is clearly impracticable to ask insurers now to face claims for which they were unable to prepare themselves in the past. It would be necessary to meet claims out of the silicosis reserve, which might be seriously jeopardised.

In the circumstances I feel I cannot accept the amendment of the member for Kalgoorlie, although perhaps the clause does not go as far as members hoped it would go. On the other hand, I emphasise that it is a big improvement on the Act as it stands; and, in addition, a proposal of this nature has never been introduced in any previous amending Bill. Although previous Labor Governments have brought down Bills seeking to amend the law, to my knowledge the provision amending this section in the Act has never been included.

Mr. May: That does not mean to say it is wrong.

Mr. PERKINS: I am not saying it is wrong; and, as a result of experience, perhaps it may be possible to make some further amendments in the future. I do not know. We are embarking on something that is new, and we do not know how many of these cases there are. I would like to emphasise the importance of this particular point of making the necessary financial provision in order to meet the liability.

Mr. MOIR: I am surprised at the Minister's attitude. He is apparently throwing overboard the views expressed by the Minister for Mines at Kalgoorlie, when he declaimed against the provisions of this Act, saying he had come into contact with many ex-miners who had suffered injustice. After making a full statement about these aspects of industrial disease, the Minister for Mines added that in his

travels he had encountered several instances of injustice occasioned by the restriction in the Act. He stated that the unfair clause in the Act was to go, and that silicosis sufferers would benefit.

But there is no doubt that those people who have been suffering the injustice will continue to suffer. If this amendment is passed, it will merely take care of any injustice that may arise in the future.

The people who have already gone out of the industry and are in the category of those who a doctor could not diagnose as suffering with silicosis, but who subsequently were found to be silicotic after three years, will be the people who will remain outside the provisions of the Act.

I am sure the Minister has not looked at the silicosis reserve fund held by the State Insurance Office. From time to time we find the rates have been reduced from 84s. per cent. to 20s. per cent. The reserve fund has built up to such an extent that it is not now disclosed. A few years ago we were supplied with details, and we could see how that fund was growing. The last figures I saw indicated that it was in advance of £900,000. Of late years the State Insurance Office has not mentioned that silicosis reserve fund; I daresay because it has grown so much that it is proving an embarrassment.

The few people involved in this entire matter would not affect the reserve very much. The Minister talked about a person dying. Quite a lot of silicotics die from causes other than silicosis. Even where silicosis sufferers die within the three-year period there is no chance of recovering compensation on their behalf unless the doctor certifies the cause of death was tied up with silicosis. It must either be a direct cause or a contributing factor in the worker's death. Unless such a certicate is forthcoming the claim cannot succeed. That person comes within the three-year period of the Act now. It is not correct to say that people who have died in the past would have qualified. I know of cases where ex-miners suffering from silicosis have died and the death certificate has not mentioned silicosis at all; and, as a result, no compensation has been paid in such cases.

In view of the healthy condition of the fund I cannot understand why the Minister wants to keep outside these few people who are suffering the injustice to which I have referred—particularly when their plight is recognised by the Minister for Mines, who said that his Government would do away with this injustice. The amendment will not overcome that injustice; it will only take care of the future.

The Minister referred to the person who is out of the industry at present and who may, by some means or other, come under the provisions of the Bill. That is most improbable. The Minister might say that a man could return for a period and reestablish himself with an employer for the three-year period. But that is also most improbable. Even if it were so, there have been cases in the past where the insurer has said that the man did not contract the silicosis during the later period he worked, but during the earlier period; and because he had made no claim within the three-year period, he was outside the Act. For the Minister to reject the amendment on financial grounds shows he has not inquired into the amount of money which lies in the silicosis reserve fund. I support the amendment.

Mr. W. HEGNEY: I support the amendment moved by the member for Kalgoorlie as I appreciate the concern of members of Parliament, some of whose constituents are directly affected by legislation of this nature. The Minister says that there has never previously been any legislation like this; but apart from the question of some retrospectivity, and matters of that nature, the Labor Government on occasions endeavoured to remove entirely the restriction of three years in section 8 as it affects pneumoconiosis, silicosis, and miner's phthisis.

The reason for the provision in the Bill is that the Minister could not hesitate any longer in introducing amending legislation to ease the present position; because the committee he appointed, as far as I know, did indicate that the symptoms of those diseases could arise after a period longer than three years. The Minister read some opinions given him by the Crown Law Department; but it is evident that the clause as it stands will mean that a very worthwhile section of the community will not receive a measure of social justice from this legislation.

What every reasonable member desires is to ensure that those who are now beyond the pale and who have left the industry are not debarred by the three-year limitation and that the legislation will, as occasion arises, confer its benefits upon those people. I was pleased to hear the member for Boulder make reference to the insurance premium and the reserve of the silicosis fund. At one stage the premium went up from £1 10s. to as high as £4. I understand the Premium Rates Committee caused those rates to be progressively reduced by an amount of about 400 per cent. I am not sure what the figure is now, but it is either £1 5s. or £1. If the Government wanted to do the right thing by these men the position would not be considered on an actuarial basis; and I do not think there is any insurmountable difficulty on the financial side.

When speaking to the amendment the Minister did not offer any modification in regard to retrospectivity. The amendment is all-embracing, but the Minister did not say he would go back one year, five years, 10 years, or any other time. He

just read out his advice from the Crown Law Department. I quite understand the Crown Law Department would give advice to the Minister in accordance with the provisions of the Act; but the provision in the Bill is not as magnanimous as it would appear at first sight, and it will not be as beneficial to ex-miners as one might be led to believe from a superficial glance. If this amendment is defeated I would like the Minister to indicate whether he is prepared to agree to any period of retrospectivity, because some consideration must be extended to these men.

Mr. MAY: We have the amazing situation of the Minister telling us there is to be no extension of the three-year period; and yet the Minister for Mines, who is directly concerned with this legislation, went to Kalgoorlie and indicated that some redress was to be afforded. That is rather a remarkable situation.

Mr. Perkins: It is a big improvement on the previous position.

Mr. MAY: I have stated what was indicated to the people who are suffering as a result of having been employed in the industry—and it was indicated by the Minister who holds the portfolio of Mines. The member for Boulder also amazed me when he said he had not seen the figures in connection with this fund for some years. The last figure he saw was £900,000. Despite that amount, we are going to say to these poor devils, "It is better to let you die than pay you compensation."

What is the fund for if not to give some redress or assistance to those people who are suffering today? A Mr. Cusal, of Collie, comes to me every Sunday morning and inquires about the prospects of this legislation. He has been out of the industry for over three years, and he is suffering from silicosis. When I next see him in Collie I will have to say to him, "You had bad luck old fellow."

It is not right that these people should suffer when it is possible to reduce premiums to the extent mentioned by the member for Boulder. I cannot understand why the Government is not prepared to give some recognition to this terrible state of affairs; and I strongly urge the Committee to give favourable consideration to the amendment moved by the member for Kalgoorlie. If the Committee passes the amendment it will afford some relief to those people who, up to the present time, have been outside the scope of the Act.

Mr. EVANS: I was disappointed to learn that the Minister is not prepared to accept this amendment, the only reason he gave being the economy of the situation. Presumably this information was received from the State Government Insurance Office; and obviously the Labor Government, in 1958, would have been given the same advice when it intended to introduce amending legislation.

In 1958 it was proposed to amend, among other sections, section 8 of the parent Act, and the following is quoted from a proposed new subsection (7a):—

> where after the coming into operation of the Workers' Compensation Act Amendment Act, 1958, a worker is suffering from silicosis, pneumoconiosis, or miner's phthisis, and thereby disabled from earning full wages, or the death of a worker is caused by one or more of those diseases, and where the worker was not employed at any time within three years previous to the date of the disablement or death, the worker is, or, as the case may be, his dependants are, entitled to compensation;

It will be noted that this provision was to be retrospective, so that if a disablement occurred 20 years beforehand, the person, if alive, would be entitled to compensation. I understood the Minister to say that this had not been attempted before.

Mr. Perkins: That is so.

Mr. EVANS: I have just read a provision in the 1958 Bill which proves that it has been attempted before. That provision was fully retrospective. If the provision would act to the detriment of the fund, the Labor Party must have been courageous in introducing it. However, I very much doubt whether the provision would act to the detriment of the fund. I base that contention on the remarks of the member for Boulder, who has had years of experience as a union organiser, a miner, and a member of this Chamber. He has been associated with those who work in the industry and has assisted those who have claimed compensation from the fund. Therefore I believe the Minister should reconsider his decision in the light of the information given by the member for Boulder.

After all, it must be realised that there would be very few who would come under the benefits of this provision; and, unless they are given some assistance, they will be left on the economic scrapheap. It is only just that these people should be assisted. This provision is the most humanitarian one in the Bill, as it was in the 1958 Bill. However, all the amendments contained in the legislation in 1958 were rejected by the Legislative Council.

The Minister for Mines gave an assurance to Mr. Heenan that he would have a committee investigate the problem. He also gave an assurance in Kalgoorlie that relief would be afforded those persons who were disabled from this disease, but who were barred from receiving compensation because of the three-year limit.

Mr. Tonkin: What has been done about those assurances?

Mr. EVANS: The same as has been done about other assurances given by the Government, I am afraid.

Mr. Tonkin: I thought so!

Mr. EVANS: The Minister for Mines gave a clear assurance that these people were to receive relief—not those who become disabled in future, but those who are disabled now—yet this legislation has no reference to those people at all. I would therefore again ask the Minister whether he would accept the amendment. He would then be able to look back in years to come and feel that he at least, while Minister, gave some relief and made a mark in the field of workers' compensation.

Mr. PERKINS: Although this is a controversial subject, I feel we have gone as far as we should go at this stage. We are embarking on a somewhat new field, and no-one knows exactly how many workers will be involved. I have a feeling that there will be a greater number of claims under this legislation than is expected at present. The advice I have received is to the effect that for various reasons it takes longer for the disablement to become apparent. To that extent we are entering a somewhat unknown field. If the Bill comes into force and various claims are made, those administering the Act will have a better idea of how it will work out.

Whatever size the fund may be, it is still very much a matter of opinion whether it will be adequate to cover actuarially the liability involved. From now on we will be able to accumulate more concrete evidence. If the liability is not as great as is anticipated, perhaps we will do something about the matter during another session. On the advice available to me, I do not think we should at this stage go further than the Bill provides.

Mr. MOIR: The Minister is concerned about the possibility of a greater number of people going on to the fund than is anticipated. There need be no secrecy about that. The people who have silicosis to any extent are recorded; as are also the miners who claim compensation. It should be a simple matter to find out how many people are suffering from silicosis and how many have made claims.

Mr. Perkins: It is when they are disabled they have the opportunity to claim.

Mr. MOIR: When they are suffering from silicosis they are potentially disabled. It appears that the Minister has not gone into the pounds, shillings, and pence aspect of this matter. He says this will cost money; that we do not know what effect it will have on the fund; that we do not know the actuarial position. But I venture to say that the actuarial state of the fund must be very good when we remember that the premium rates for silicosis have been reduced from 84s. to 20s.—despite the fact that we have had substantial increases in the rates of compensation to be paid—since the time when £1,750 was paid; in fact, since the sum of £1,250 was paid.

On a previous occasion I gave the last authentic figures known to me—they were the figures that applied in 1954 and 1955. The secretary of the Chamber of Mines was sitting in the gallery at the time, and he got a terrible shock. He did not know that the reserves were so high, and he told me so. He came to the House the next day and told me the figures were a revelation to him. He said, "It looks as though we are being overcharged."

Mr. Perkins: He is not doing the payout.

Mr. MOIR: It appears to me that the workers have not received sufficient compensation. Time and again goldfields members in this place have advocated widening the Act so that it would be more accessible to people who required compensation. Members on the other side of the Chamber pointed out that we would be damaging the mining industry if we imposed further burdens on it. I think they said that in all sincerity and without being aware of the amounts of money that were available.

I would not care if this cost £100,000. The fund is a huge one, in the vicinity of £1,000,000—perhaps more—so what would £100,000 matter to it?

Mr. Norton: Would that amount be earning interest?

Mr. MOIR: The costs of practically everything we can imagine have increased, but these premium rates have been progressively and substantially reduced from 84s. per cent. to 20s. per cent. in two or three years. Because of that, we can come to only one conclusion: The suggestion that finance is not available to pay the people concerned is just so much idle talk.

Mr. Perkins: You do not know; you are only guessing.

Mr. MOIR: I think I am far better informed than the Minister. The only reason I do not know the actual amount, is that the reserve is placed in with the other reserves; and I think that has come about as a direct result of disclosures I made in the Chamber a few years ago, because prior to that the State Government Insurance Office reports always showed the amount and one could see what the increases in the silicosis fund were from year to year. But the figure is not there now, and it has not been there for two or three years.

Mr. Perkins: You do not know what liability will be created as a result of the Bill.

Mr. MOIR: I know the liability must have dropped considerably over the years because of the way the premium rates have been reduced. The Minister has not

got down to tintacks to find out what the liability will be. He is only guessing; and he is on the safe side, because he says there is a whole herd of people who will come in under this.

Mr. Perkins: I am going on what my advisers tell me, and they are dealing with it every day of the week.

Mr. MOIR: I have already told the Minister that the advisers he mentioned would not know of these cases, because they come in contact only with people who think they have a chance of getting compensation. If a person knows he is well outside the Act he does not make a claim. People make a claim only if they think there is a legal possibility of their coming within the Act.

It is far worse for a person to suffer from this disease than to suffer from the disability of the loss of an arm or a leg. If a man loses an arm, the disability probably finishes there. But this is an insidious disease that slowly drags a person down in health. Some people are fortunate in that they remain at the same state of health, but others have their constitution lowered to such an extent that eventually they contract tuberculosis. If the Minister had to perform the melancholy duty that goldfields members perform at times when visiting the chest hospital or the Wooroloo Sanatorium to see these men, this disease would be brought home to him very forcibly.

Mr. TONKIN: Assertions have been made by members on this side of the Chamber to the effect that the Minister gave certain assurances on the matter under discussion. It is somewhat significant that the Minister in charge of the Bill has made no attempt to deny those assertions or to explain the circumstances under which they were given.

Mr. Perkins: I have no knowledge of them.

Mr. TONKIN: If that is so, the Minister should make it his business to find out what those assurances were. We are inclined to take too lightly the abrogation of assurances that are given. There are members on this side of the Chamber who have said, in this debate, that a Minister gave assurances in Kalgoorlie that workers' compensation would be dealt with in a much better way than it is being dealt with under this Bill. The Minister for Labour should find out who made those assurances. If they were given they should not be brushed aside as being of no consequence; because, when a Minister gives an assurance he speaks on behalf of his Government, and he expects the people to believe what he says.

However, if assurances are to be given in this manner, they are quite worthless, and we cannot complain that the value of government is discounted and the word of a Minister is completely disregarded. There is a definite obligation on the Minister to ascertain whether these assurances were, in fact, given. If they were given he should honour them or explain why he cannot do so, but no attempt has been made to do either of those two things. It is a most unsatisfactory situation, and it is something which should not be countenanced by any member no matter on which side of the Chamber he sits.

I have always made it a principle that when I give my word I stick to it. I can recall, with some pride, that in connection with water supplies, for example, I have given assurances to people in various localities that they would be supplied with water before a certain date, and in every instance those people were supplied with water before that date, and never once after the date fixed.

The CHAIRMAN (Mr. Roberts): I cannot allow the Deputy Leader of the Opposition to proceed along these lines, because the amendment before the Chair is for the insertion of certain words.

Mr. TONKIN: I appreciate that; I only mentioned that by way of illustration to show how a man's word should be regarded. A Minister, above everyone else, should adopt the attitude that his word is his bond, and when a Minister says that something is to be done it should be done.

Mr. Bovell: That is so.

Mr. TONKIN: It is not so with this Government.

Mr. Bovell: Oh yes it is!

The CHAIRMAN (Mr. Roberts): Order!

Mr. TONKIN: The Minister who interjected apparently knows more than the Minister in charge of the Bill, because the Minister in charge of the Bill said he did not know whether the assurances were given.

Mr. Bovell: You were talking about assurances generally.

Mr. TONKIN: I am talking about assurances given by this Government.

The CHAIRMAN (Mr. Roberts): Order! The Deputy Leader of the Opposition must keep to the amendment before the Chair, and the amendment has nothing to do with assurances.

Mr. TONKIN: With due deference to your ruling, Mr. Chairman, I think it has everything to do with assurances; because it has been asserted by members on this side of the Chamber that a Minister, on behalf of the Government, gave an assurance that action would be taken by the Government along the lines of this amendment.

Mr. Perkins: I do not think that is right at all! I do not accept that.

Mr. TONKIN: Does the Minister know whether it is right, or is he only guessing?

Mr. Perkins: It is not in accordance with the statement I gave the Minister.

Mr. TONKIN: Will the Minister undertake to inquire whether the assurances alleged to have been given by this Minister were given; and, if they were given, whether they have been put into operation? That is all I am asking.

Mr. EVANS: We have heard so much about assurances—

The CHAIRMAN (Mr. Roberts): There is to be no more comment on assurances.

Mr. EVANS: They relate to proposed new subsection (1a) under clause 4, inasmuch as the Minister for Mines, on the 19th February, 1960, when speaking in Kalgoorlie earned this heading in the *Kalgoorlie Miner*—

> Silicosis Sufferers Will Benefit Announcement by Minister for Mines

The article then continued as follows:—

> In accordance with a recommendation made by a committee appointed by the Legislative Council to inquire into the restriction contained in the Workers' Compensation Act limiting claims by miners suffering from silicosis to a three-year period after leaving the industry, the State Government intends to remove the restriction, the Minister for Mines, Mr. Griffith, said last night.
>
> Details of the amendment necessary to secure that were under consideration and would be put to the Minister for Labour, Mr. Perkins, prior to the next parliamentary session.
>
> "If accepted they should remove any possibility of injustice to miners whose silicosis progresses after they leave the mining industry," Mr. Griffith said.
>
> He added that in his travels he had encountered several instances of injustice occasioned by the restriction in the Act.

Mr. Perkins: It says nothing about its being retrospective.

Mr. EVANS: That is quite clear. The Minister gave those assurances when he met the people in Kalgoorlie, and he said that the Minister in this House would amend the Workers' Compensation Act to remove this injustice. However, this Bill contains no such amendment.

Mr. MOIR: I cannot let this matter rest where it is. I say here and now that the Minister for Mines gave me a personal assurance that this matter was going to be satisfactorily adjusted.

Mr. Perkins: And that the Bill was going to be retrospective? You cannot say "Yes" to that question.

Mr. MOIR: When the Minister made this announcement in Kalgoorlie he had met the management committee of the mining division of the A.W.U. In the discussion of other matters, this statement in regard to silicosis was made. He told me at the time that the matter would be arranged satisfactorily; that he did not know what would be the exact form of the amendment to the Act; and that recommendations had been made to him. He said that the position would be adjusted satisfactorily. He went on to say that he had met many men who were suffering from silicosis and had left the industry, and that they could not receive any compensation. He said such cases would be covered if the proposed amendment to the Act went through.

Mr. W. Hegney: They will not be covered if this Bill is passed.

Mr. MOIR: No. The existing situation will be perpetuated. All that the Bill will achieve is to ensure that in future the existing injustice will not arise again; but the Bill does nothing to rectify the existing injustice.

Mr. J. Hegney: The Minister for Mines gave an assurance that the position would be rectified.

Mr. MOIR: Yes. If the provision in the Bill goes through in its present form there will be a few disappointed people. After hearing the statement of the Minister for Mines, to which I referred, they believed they would receive some compensation for their disability when the amending Bill was introduced. It cannot be said that such men did not suffer the disability as a result of their employment in the industry. When a provision is proposed to enable workers who sustain this disability in the future to be paid, former workers in the industry should also be included.

Workers who contract silicosis after the coming into operation of the provisions in this Bill will be covered; but those who have already left the industry and are affected will receive no benefit. I cannot think of a greater injustice.

I am firmly convinced that the necessary finance is available to include in the scheme workers with this disability who have left the industry. It is not a question of creating another fund or increasing the existing premiums. The Minister should not boggle at my proposal.

Members opposite seem to be ultra-cautious and conservative in these matters. Whenever a Bill which seeks to confer on injured workers a measure of justice is introduced, we hear comments from them that the necessary finance cannot be found. Here is one instance where the money is available. Let us amend the Act, so that workers who sustained this disability in the past will be covered.

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

Ayes—23.	
Mr. Andrew	Mr. Kelly
Mr. Bickerton	Mr. Moir
Mr. Brady	Mr. Norton
Mr. Curran	Mr. Nulsen
Mr. Evans	Mr. Oldfield
Mr. Fletcher	Mr. Rhatigan
Mr. Hall	Mr. Rowberry
Mr. Hawke	Mr. Sewell
Mr. Heal	Mr. Toms
Mr. J. Hegney	Mr. Tonkin
Mr. W. Hegney	Mr. May
Mr. Jamieson	*(Teller.)*
Noes—25.	
Mr. Bovell	Mr. Mann
Mr. Brand	Mr. W. A. Manning
Mr. Burt	Sir Ross McLarty
Mr. Cornell	Mr. Nalder
Mr. Court	Mr. Nimmo
Mr. Craig	Mr. O'Connor
Mr. Crommelin	Mr. O'Neil
Mr. Grayden	Mr. Owen
Mr. Guthrie	Mr. Perkins
Mr. Hearman	Mr. Watts
Dr. Henn	Mr. Wild
Mr. Hutchinson	Mr. I. W. Manning
Mr. Lewis	*(Teller.)*

Majority against—2.

Amendment thus negatived.

Clause, as previously amended, put and passed.

Clause 5—Section 12 amended:

Mr. W. HEGNEY: I oppose this clause. The provision regarding offences is adequately covered by the existing provisions. This clause refers to a person fraudulently attempting to obtain a benefit under the Act by malingering. Such malingering could only relate to the worker. An injured worker cannot obtain compensation unless he produces medical evidence; and he cannot continue to receive compensation unless progressive doctor's certificates are furnished to the insurer or to the employer. It will therefore be seen that if this clause is passed it is going to be very difficult for the provision to be carried out, inasmuch as progressive medical certificates have to be furnished. There are provisions for a medical board; and if a person is considered to be fit for employment, or is wrongfully accepting compensation, there are provisions in the Act to discontinue his payments.

It is easy to form an opinion that a worker is malingering. Some doctors may hold the opinion that there is malingering; but with all due respect to the medical profession, it will at times be found that a man is doing anything but malingering —or, to use an Australianism, swinging the lead in connection with the compensation Act.

If a medical practitioner who is attending an injured or incapacitated worker certifies that the worker is fit for employment, the onus is on the worker to take steps to prove he is not fit for employment. There are provisions for a panel of doctors to examine the worker, and this reference to malingering is, to my way of thinking, unnecessary. The clause states—

> A person who fraudulently attempts to obtain any benefit under this Act, by malingering or by making any false claim or statement, and any person who, by a false statement or other means, aids or abets a person in the attempt, is guilty of an offence.

I would like the Minister to explain the definition of the words "or other means." If this clause is passed, what will be the position in regard to offences? As I understand it, at the present time the person would be entitled to a trial by jury. If this clause is passed I think it will work against the incapacitated worker.

I suggest there are provisions already existing in the law to meet such cases. I do not think this would be the only Act under which an illegal claim could be made. I suggest that the person concerned could be dealt with under the law as it now stands. I oppose this clause. I see no reason for it, and I hope it will be defeated.

Mr. EVANS: I also oppose the entire clause, for two reasons. The first is that the provision applying to malingering has adequately been shown to be unnecessary and very unjust. It is doubtful whether a doctor or a panel of doctors, at a given time, can certify with any assurance that a person is malingering. It often happens that only time can tell whether or not a person is malingering.

Mr. Brand: But they would only do that after a time.

Mr. EVANS: The clause says—

> by malingering or by making any false claim or statement.

I will instance an example where a person might be termed to be malingering. A person working underground might cut his finger. He is expected to report the accident to the first-aid man, and a report of the injury would be entered in the first-aid man's little black book.

Sitting suspended from 3.45 to 4.5 p.m.

Mr. EVANS: I was mentioning for the edification of the Premier how it could easily happen that a person could be classed as a malingerer when, in fact, he was not a malingerer at all. A worker could report to the first-aid man on the mines that he had cut his finger. The first-aid man could make a note of it in the little black book; and then the worker, after a few days, might believe that the finger had become poisoned, and he could claim compensation. Not only could that man be classed as a malingerer; but when he called upon the first-aid man to produce his book showing the date the accident happened and so on, that man also could come under suspicion.

The Act, in respect of this phase of workers' compensation, has existed in its present form since 1912, without any need for such a provision; and it seems strange that in 1960 it is suddenly discovered that a need exists for such a clause.

I also take strong exception to that part which refers to any person who, by a false statement or other means, aids or abets a person with reference to a statement; and which goes on to say that he is guilty of an offence. It is obligatory for a worker, when making a claim for compensation, to make a statement and have it witnessed by someone. I spoke of this the other evening; and I would be pleased to hear any comments the Minister may make in regard to it.

It could happen, and doubtless it has happened in the past, that a person gives testimony that he has observed an actual accident when in reality he has not observed the accident but has only been aware of the inability of the worker to carry on with his job. I quote the case of a hernia. There are cases on record where this injury has been sustained and workers have not realised that they have been injured. They have returned to work, and in due course have become unable to work and have fallen down on their job.

In such a case it would be natural that a fellow worker who witnessed the workman falling down and being unable to work would readily give testimony to the fact that he witnessed the actual accident; whereas, in fact, he did not witness the accident at all but only the inability of the worker to carry on. Such testimony would be given in good faith; but under this provision he could be charged with making a false statement. That is unconscionable, harsh, and—to say the least—unjust.

Under this provision a person is deprived of the right of trial by jury which we have been told is the heritage of our British birthright. We do not find that in the Criminal Code or in the Police Act, but in the Workers' Compensation Act—which is surprising, to say the least. By way of interjection the Minister said that the reason for the provision is that trials by jury are expensive. I cannot imagine anything more ironical—that the liberty of the subject should be measured in terms of pounds, shillings, and pence. I feel this provision is highly objectionable, and that the whole clause is unwarranted. I intend to vote against it.

Mr. PERKINS: I think all members will agree that no brief should be held for the person who fraudulently tries to obtain a benefit to which he is not entitled.

Mr. Evans: That is quite true.

Mr. PERKINS: That reacts against the genuine worker; and I know members opposite would agree that it is undesirable to encourage such a practice. It is all a matter of how we arrive at the best position in order to ensure that that does not happen. It is inevitable, with this sort of legislation, that fraudulent claims will be made; and at present if a person makes a claim in such a way that it is classed as a serious offence he can be proceeded against under the Criminal Code or the Police Act. That entails a full-scale trial by jury, which could be quite expensive; and in some cases it could mean that the procedures adopted were out of proportion to the seriousness of the offence. The offence of malingering or making fraudulent claims has particular application to the Workers' Compensation Act; and it is a matter of framing a clause in such a way that those happenings are discouraged.

Mr. Evans: Isn't that position already covered by the heading of "false pretences" under the Criminal Code?

Mr. PERKINS: Yes; but why have that procedure when a person can be dealt with summarily? There are many cases that can be dealt with summarily, and I think this is one of them. If the worker is not satisfied he has the right of appeal; and it seems rather ironical that members should suggest that this more complicated procedure should be followed when there is a simple procedure which is provided for in the clause, and which seems more appropriate. The offence under this clause certainly does not compare with the offence of conspiracy, or some of the more serious offences mentioned in the Criminal Code.

Mr. Evans: The jury system has existed for years; why change it?

Mr. PERKINS: We do not try every case by jury. If a man creates a nuisance in the street we do not try him by jury; he is dealt with in the Police Court.

Mr. Evans: This is a more serious offence than that.

Mr. PERKINS: I think we should keep the offence in its proper perspective. Members are raising objections to the wording and fears have been expressed in regard to a worker who is injured, and concerning whom there is some doubt as to whether he is fit for work or not. He might say he is not and the insurers think he is; but that does not automatically mean that the worker is malingering. He could have a neurotic condition; and although it may not be possible to find anything seriously wrong with him physically, the fact would remain that he is unfit for work as a result of an injury he has sustained. Such a worker would not be prosecuted under this clause.

I know that members on the other side of the House will recall a period in the 1930's when there were many migrant workers from Southern Europe working in the timber industry who would cut off a toe in order to gain a lump sum payment from workers' compensation. I am sure no member would approve of that sort of thing. That is where a clause such as this would have application.

In relation to aiding and abetting, in many of these cases where a worker sets out to gain benefit, under the Act, to which he is not entitled, he requires an accomplice of some kind; he must take part in

the conspiracy, and the clause would apply to such a circumstance. I do not think the fears expressed by members opposite will be realised. The idea of taking initial proceedings in the lower court rather than in the higher court has a lot to commend it. On that aspect perhaps the Attorney-General could speak with more authority than I can.

I have often heard arguments adduced from both sides of the House as to the desirability of taking action in the lower court if it is practicable to do so. In those circumstances the clause as it stands is quite suitable.

Mr. MOIR: I would ask the Minister how many cases of malingering take place.

Mr. Perkins: I do not know.

Mr. MOIR: That is the answer I expected.

Mr. Perkins: You do not know, either.

Mr. MOIR: Neither does anybody else.

Mr. Perkins: I think that might be right.

Mr. MOIR: I have associated a lot with people who have a great deal to do with compensation, and I have heard of few cases of malingering. I have had personal knowledge of two cases of people who were supposed to be malingering, one of which was entirely unconnected with compensation. The first case was that of a man who considered he was ill; he would have periods off work and would continually complain to his family and to his doctor about his illness. The doctor could find nothing wrong with him, and his family became so concerned that they sought other medical advice, including specialist advice, and in each case nothing could be found wrong with him. Subsequently the man gave up work altogether. He would just lie about the house, and everybody was mystified because he used to be a good worker and an industrious fellow. He was not at all neurotic.

Finally his family and friends thought the man had nothing wrong with him, and that he was malingering. The man subsequently died, and the doctor still did not know the cause of death—he said it was due to natural causes. There was a man who was thought to be malingering, but who died of some obscure complaint that was not diagnosed.

I knew of another case where I was convinced the man was malingering. He had a back injury; and even the State Insurance Office doctor, Dr. Radcliffe-Taylor, was convinced the man was malingering because the X-rays disclosed there was nothing wrong with him. The secretary of his union thought he was malingering, and told him so. He obtained light employment in two or three different jobs, but left them because he claimed he could not carry out the work.

Subsequently when an X-ray was taken by a new machine in Kalgoorlie a condition was discovered which was not apparent previously. Dr. Radcliffe-Taylor apologised to the man, as did the union secretary, and he was recommended for compensation for a back injury. In that case everyone thought the man was malingering, and under this Bill he would have been prosecuted and convicted, and a penalty would have been imposed on him. What could he have done to clear his name when subsequently it was found that he had something seriously wrong with him?

I do not condone any of the offences mentioned in the Bill; but I think the clause will leave the way wide open for innocent people to be convicted and proceeded against. The reference to a man who makes a false statement is definite enough; although it has been pointed out that sometimes a man makes a false statement believing it to be true. But the provision in the Bill covers every aspect.

Mr. Perkins: A man making a false statement believing it to be true would not be prosecuted. We sometimes find the member for Melville making such statements.

Mr. Tonkin: Don't let's have any of that sort of nonsense!

Mr. MOIR: The member for Melville is very often right on the ball. This provision is so wide open that almost anybody would be covered by it. I remember a case of a man claiming for an injury, and the officials of the employers stating he had met with the injury away from his work. The injury occurred on Monday morning, but the officials claimed he had incurred it on Saturday evening in the town through a fight. The medical evidence found that the man had bones broken in his hand, and it was proved he had sustained the injury only a matter of hours before the doctor saw him. Under this clause he could have been proceeded against for malingering or making a false claim. I move an amendment—

> Page 4, lines 10 to 14—Delete all words after the word "Act" down to and including the word "attempt."

Mr. PERKINS: I have not yet been able to give this matter consideration. It is the first time it has been raised.

Mr. Moir: It was raised on the second reading.

Mr. PERKINS: On a quick look at it, it would seem that if we are to accept the first portion of the clause we should accept the balance, because there is nothing more objectionable about it.

Mr. Tonkin: There is a big difference.

Mr. PERKINS: I am anxious to get at the person who aids and abets a false claim. Many of these false claims need an accomplice to bring them to fruition.

It would be difficult to get at such an individual under either the Police Act or the Criminal Code. Seeing this has particular application to this Act provision should be made for the penalty on the person who aids and abets in a false claim.

Mr. W. HEGNEY: I reluctantly support the member for Boulder in trying to make the clause less objectionable, because I would like to see it eliminated altogether. The Minister admitted that the Police Act and the Criminal Code contained provisions to deal with cases of this nature. If that is so, why does he include a penal clause in this Bill? The clause under consideration is new to the Act. No member of Parliament would condone a malingerer or anyone aiding and abetting him in securing benefits under the compensation Act. Does the Minister know how many cases of fraudulent attempts to obtain compensation have come before him or the Workers' Compensation Board, or how many cases of alleged malingering have been brought before his notice? In other words, what evidence has he before him for the inclusion of this provision in the Bill? I think members are entitled to know the background of this clause. We have had no tangible evidence presented to us to show whether there have been one, five, or a dozen cases. I think the Committee should be given this information by the Minister.

The Minister said that if the amendment is accepted it is only reasonable to go the whole way and accept the balance, because the balance of the clause is no less objectionable. It is quite conceivable that a person in all good faith could make a statement with a view to aiding a person to obtain compensation; and that person who was aiding or abetting, as it were, could be absolutely ignorant or unconscious of the fact that the other person was fraudulently attempting to obtain compensation.

I think it will be agreed that under this clause the accomplice—to use the term mentioned by the Minister—will be liable for an offence. I do not think that is necessary. The Minister has already told us that there are two Acts of Parliament under which action could be taken with regard to an offence of this nature. I refer to the Police Act and the Criminal Code. The Minister advanced as his argument that it is more costly to proceed under those Acts than it would be under the Workers' Compensation Act.

I agree with the member for Kalgoorlie that the question of cost is of minor importance. I do not know what has prompted the Minister to be so insistent about the retention of this clause; and I am of the opinion that if he is going to continue to insist, he should produce some evidence for its inclusion. All the Minister has done is refer to a case of some southern Europeans in the timber industry which occurred about 30 years ago. I do not think there were a great number of those cases, even in the days of the depression. I support the amendment, but would prefer to see the whole clause deleted from the Bill.

Mr. NORTON: I support the previous speakers on this side of the House in what they have said about this clause. I am of the opinion that it is out of place in this Bill, particularly as the Minister has told us that the persons concerned can be dealt with under the Criminal Code or under the Police Act. A person who makes a false statement should be dealt with in a severe manner; but from what the Minister has said it appears as though he wants to take action under the section of an Act which will be more lenient than those Acts to which I have referred.

When one considers the words which the member for Boulder is desirous of deleting, one must come to the conclusion that the deletion would not have a damaging effect on the proposed new amendment to the Act. I am concerned about the word "malingering". As members know, many members of the forces were accused of malingering, and it was subsequently proved that the accusation was false. If a person sustains a head injury he may be suffering from a complaint which is not apparent even though he may have been X-rayed or examined by a doctor. However, under the provision in this Bill he could easily be classed as a malingerer and charged as such. Internal injuries and spinal injuries are also difficult to detect; yet a person suffering from these disabilities could be charged with malingering and possibly found guilty of an offence under this Act.

Action against a person making a false statement can be taken under the Police Act or the Criminal Code. The person who aids or abets another in connection with a claim for compensation must make a statement that he has seen that person receive the injury—he must take some action if he is going to aid or abet a person to get compensation under the Act. For those reasons I support the amendment, although I would prefer to see the whole clause deleted.

Mr. ROWBERRY: I support the amendment and would like to back up the argument advanced by the member for Mt. Hawthorn. The Minister should produce evidence or statistics in relation to malingering. From my experience, malingering is very difficult to establish. The Minister mentioned that there were cases of southern Europeans who cut off limbs, toes, and fingers, in order to gain a lump sum of compensation. I have been associated with the timber industry for 30 years, and I do not know of one case where that has happened. I have heard plenty of stories about it. I heard one

story about an Italian who went to a doctor to show him his left foot, from which two toes had been cut off. When he was asked by the doctor to bring his boot along, the wrong boot bore the axe mark. That is just a story.

The Minister should adduce some facts for the inclusion of this clause in the Bill. Otherwise I am afraid he is merely acting on the assumption that we all know. I desire to be dissociated from that statement. I know of a person employed in the timber industry who suffered for months with a twisted side. Everybody thought he was stacking on a show. He went to doctors, specialists, and was X-rayed. He received heat treatment and every other treatment known to medical science, but there was no appreciable improvement in his condition. Someone had a brainwave and sent him to a psychologist, who advanced the theory that the man was of a neurotic disposition, and because he found that no-one would believe his story the psychological result was that it affected him physically.

The psychologist advised that this man's story be believed and suggested that he be paid compensation. The psychologist was of the opinion that if that were done the condition would gradually clear away. After he had been paid compensation the condition of that man gradually became normal. However, the whole complaint was mere assumption; and the man could have been classed as a malingerer. How could anyone tell in the case of a muscle injury whether a man was a malingerer or not? Unless the Minister can advance justification for the inclusion of this clause in the Bill I must support the amendment moved by the member for Boulder.

Mr. TONKIN: I see danger in this clause because of my knowledge of the fact that statements have been made by doctors who have genuinely thought that people have been malingering. During the course of the inquiry into natural therapy, it was stated from time to time by patients that when they had visited doctors who were unable to supply any remedial relief, the doctors expressed the opinion that they were malingering; and they genuinely thought so. However, subsequently it was proved, because those patients went elsewhere for treatment and obtained a remedy, that they were not malingering.

During my lifetime I have come across a number of instances where doctors have stated that injured people have been malingering but where it has been subsequently proved they were not. One of the injuries which lends itself to this suspicion is a back injury, and often doctors will examine a man who has strained his back and fail to detect any trouble. After a fair amount of treatment they come to the conclusion that there is nothing really wrong with the person concerned. In such cases it is only those whose backs are hurt who know that they are not fit for work.

I am afraid that there is a disposition to say of people who are complaining that they only think there is something wrong with them, but that there is not anything really wrong. Therefore there is real danger in this provision, and it seems to me that the Minister's desire would be adequately met if provision were inserted that a person who fraudulently attempted to obtain any benefit, was guilty of an offence. Surely that would cover everything! If a person were fraudulently attempting to gain a benefit to which he was not entitled, that would be sufficient reason for him to be accused; but to include a provision about malingering when there has always been so much doubt means that innocent people could be wrongly convicted.

Members on this side of the House have given instances of persons who were regarded as malingerers and who subsequently died within a short period from the injury which they stated they had. It is conceivable that on a doctor's evidence such persons could have been convicted of endeavouring to gain an advantage fraudulently by saying they were ill when they were not ill. I think that is too great a danger, and we should not take the risk.

I would prefer that the insurance company should lose a few pounds through fraudulent representation rather than that innocent people should be subject to court action and conviction because someone else, who has not the injury, thinks that those people are malingering. That is the danger, and it is not an imaginary danger but a real one.

I personally know of instances where doctors have definitely stated that, in their opinion, men were malingering; and subsequently it has been proved—sometimes more than 12 months afterwards—that the persons were seriously ill and the doctors did not know. It would be on medical evidence mainly that these convictions would rest. Who else would determine whether or not a man was malingering? As we have had examples quoted here where medical evidence has been to the effect that people have been malingering and subsequent evidence has proved that they were not malingering, then obviously there is a very grave danger that innocent people will be convicted. I think we should all try to guard against that.

There is another aspect to this clause. A person may make a false statement which would aid and abet another to obtain some payment to which he was not entitled. Unless he wilfully made that false statement, he should not be found guilty.

Mr. Rowberry: Hear! hear!

Mr. TONKIN: A person could, in all good faith, believe that he was stating the truth when, in fact, he was actually making a false statement. Therefore, it should

be provided that a person will be guilty if he wilfully makes a false statement. That is an aspect which has escaped the Minister's attention. There is a very big difference between making a false statement by which someone will wrongly benefit, and wilfully making a false statement.

I would not have any sympathy with a person who wilfully made a false statement to assist someone to obtain a fraudulent benefit, but I would have every sympathy for some people—not everyone; I would not have any sympathy for a highly intelligent and educated person who made a false statement of this nature. There could quite easily be instances where people of below-average mentality or education, in their simplicity and ignorance, would make a false statement without knowing it was false. They should not be culpable, because they would be no more to blame than a person who made no statement at all. So we have to safeguard that situation.

I have, therefore, two objections to this clause. Firstly there is a very real danger that a man might be considered to be malingering when, in fact, he is not. I emphasise that that is a very real danger, the like of which I have come across in my own personal experience and which other members have also encountered. Secondly, there is a big difference between a false statement made unintentionally, and a false statement which is wilfully made.

As a matter of fact, some of our laws recognise that fact. Take the law of contracts, for example. If a person wilfully makes a false statement in the law of contracts, it will abrogate the contract; but if he makes a false statement without knowing it to be false, it will not abrogate the contract although it might leave him open to certain disabilities or punishments which might be imposed because some other person is inconvenienced. That is a different matter. So in all fairness it is obvious that something should be done to safeguard innocent people under this clause.

The only criterion should not be to safeguard the insurance companies from paying out money they should not have to pay. We should have regard to that, but not that only. We also should consider the welfare of the unfortunate individual who might find himself in the position of being completely innocent of any wrongdoing and yet be subject to some punishment because of the statement he has made. I would urge the Minister to take this matter seriously and try to safeguard against that situation. The amendment moved by the member for Boulder still gives the Minister power to control fraud with regard to payments, but it does not leave innocent people open to punishment. I support the amendment.

Mr. MOIR: It appears that the Minister is adamant in his intention to leave this clause unaltered. That is, of course, in conformity with his attitude on most questions in this Chamber.

I have already given instances of cases where people could be and have been considered to be malingering when really they have not been. I will give another instance; one which should be known to most members in this Chamber. It was an incident which occurred within the last two years, where a man who had a fall believed he had a shoulder injury. He was X-rayed by recognised experts who stated that he had no shoulder injury. However, it was subsequently found that the man had a broken shoulder. He took action for damages against the medical firm concerned and obtained substantial damages. Had that man been a compensation case, and had this clause been in force, he could have been successfully prosecuted, because of the statements of the radiological experts. That is only one instance.

We all know of instances where the reverse has been the situation. The doctor has told a person he was suffering from a certain complaint and it has been subsequently found he was not suffering from that complaint at all. I have had that experience myself. I was told by a Perth specialist that I had a certain organic weakness, which was subsequently found to be incorrect. Also, someone very near to me was examined by a specialist and told there was no cause for complaint. However, subsequently it was found that there was definitely something wrong which would require an operation.

Therefore we know these mistakes are made. Yet the Minister wants us to place something in this legislation which could be the means of convicting innocent people. Does the Minister believe that a number of innocent people should be convicted in order that one guilty person can be punished? I do not like to see a guilty person go unpunished, but I certainly do not believe that we should run the risk of innocent people being punished in order to incorporate in the legislation something which has a sort of shotgun effect, in order to catch up with a person who may be guilty of an offence under the legislation.

I do not like the clause, and I do not believe it should come in here at all, because there is provision in other Acts under which people who try to commit a fraud can be dealt with. It is only because of the attitude of the Minister that I have moved in the way I have in order to make the clause in some way sensible and reasonable.

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

Ayes—23.

Mr. Andrew	Mr. Kelly
Mr. Bickerton	Mr. Moir
Mr. Brady	Mr. Norton
Mr. Curran	Mr. Nulsen
Mr. Evans	Mr. Oldfield
Mr. Fletcher	Mr. Rhatigan
Mr. Hall	Mr. Rowberry
Mr. Hawke	Mr. Sewell
Mr. Heal	Mr. Toms
Mr. J. Hegney	Mr. Tonkin
Mr. W. Hegney	Mr. May
Mr. Jamieson	*(Teller.)*

Noes—25.

Mr. Bovell	Mr. Mann
Mr. Brand	Mr. W. A. Manning
Mr. Burt	Sir Ross McLarty
Mr. Cornell	Mr. Nalder
Mr. Court	Mr. Nimmo
Mr. Craig	Mr. O'Connor
Mr. Crommelin	Mr. O'Neil
Mr. Grayden	Mr. Owen
Mr. Guthrie	Mr. Perkins
Mr. Hearman	Mr. Watts
Dr. Henn	Mr. Wild
Mr. Hutchinson	Mr. I. W. Manning
Mr. Lewis	*(Teller.)*

Majority against—2.

Amendment thus negatived.

Mr. EVANS: I rise again to express objection to the part of the clause which states that any person who, by a false statement or other means, aids or abets a person who fraudulently attempts to obtain any benefit under this Act, is guilty of an offence. In order to express my intentions in this regard I move an amendment—

> Page 4, line 12—Insert after the word "who" the words "wilfully and knowingly."

The CHAIRMAN (Mr. Roberts): The honourable member cannot do that, because the clause stands as printed at least up to the word "attempt."

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

Ayes—25.

Mr. Bovell	Mr. Mann
Mr. Brand	Mr. W. A. Manning
Mr. Burt	Sir Ross McLarty
Mr. Cornell	Mr. Nalder
Mr. Court	Mr. Nimmo
Mr. Craig	Mr. O'Connor
Mr. Crommelin	Mr. O'Neil
Mr. Grayden	Mr. Owen
Mr. Guthrie	Mr. Perkins
Mr. Hearman	Mr. Watts
Dr. Henn	Mr. Wild
Mr. Hutchinson	Mr. I. W. Manning
Mr. Lewis	*(Teller.)*

Noes—23.

Mr. Andrew	Mr. Kelly
Mr. Bickerton	Mr. Moir
Mr. Brady	Mr. Norton
Mr. Curran	Mr. Nulsen
Mr. Evans	Mr. Oldfield
Mr. Fletcher	Mr. Rhatigan
Mr. Hall	Mr. Rowberry
Mr. Hawke	Mr. Sewell
Mr. Heal	Mr. Toms
Mr. J. Hegney	Mr. Tonkin
Mr. W. Hegney	Mr. May
Mr. Jamieson	*(Teller.)*

Majority for—2.

Clause thus passed.

Clause 6 put and passed.

Clause 7—Section 16 repealed:

Mr. W. HEGNEY: Section 16 has been in operation for many years. I propose to ask the Committee to reject this clause. Section 16, which is quite a wordy one, deals primarily with the protection provided by insurance cover for workers who are employed by contractors. The section provides that where a principal lets out work on contract and the contractor employs workers, if the contractor is a man of straw, or if he has not insured his workers, then if one of the workers is injured he is entitled, after suing the contractor, to call on the principal. This provision has been in operation for many years, and the Government proposes to repeal it. I think this is a retrograde step. The Minister may say the position will be covered by another clause, but that does not satisfy me.

In the building industry, the tendency in recent times has been for some contractors to let out quite an amount of work to people whom they regard as subcontractors but who are actually no more and no less than workers: employees. They provide the labour and nothing else.

What will be the position if this clause is repealed? It will mean that for these workers—I do not doubt for a moment that there will be some cover for them elsewhere, although the obligation will still be under the Act for the employers to insure them—the premiums for the insurance cover must come from somewhere else. The following is just one portion of the section that it is proposed to repeal:—

> In any case where any person (hereinafter referred to as the principal) contracts with any other person (hereinafter referred to as the contractor) for the execution of any work by or under the contractor—

That would extend to subcontractors, too—

> —and the contractor employs any worker therein, both the principal and the contractor shall, for the purposes of this Act, be deemed to be employers of the worker so employed, and shall be jointly and severally liable to pay any compensation which the contractor if he were the sole employer would be liable to pay under this Act.

The Government proposes to repeal that provision; and that is unjustifiable. This section has been in the Workers' Compensation Act for years. The section goes on to provide—

> The principal shall be entitled to be indemnified by the contractor against the principal's liability under this section.
>
> The principal shall not be liable under this section unless one of the following conditions is fulfilled:—

The conditions are then set out. There are seven subsections to section 16, and they

deal with insurance cover as it applies between principal, contractor, and worker.

I think that in 1957 the then Labor Government introduced, among other amendments to the Workers' Compensation Act, a provision dealing with insurance cover for these alleged subcontractors particularly subcontractors in the building industry. To all intents and purposes, they are workers. In some quarters, however, they are regarded as independent contractors and not employees under the Workers' Compensation Act, because they are paid a price to do a certain job. I hope that some private members, who are aware of what is going on in the building industry particularly, will have enough courage to ensure that the protection that is afforded these people at present will continue.

The only justification the Minister can put forward for this amendment is that there is another clause in the Bill which would extend to uninsured workers a guarantee that they will be paid their workers' compensation benefits from a fund which is to be established by the Workers' Compensation Board. However, the money to establish such a fund must come from some source. As workers' compensation is compulsory, and as this section has been in operation for many years past, it should continue to operate and the Committee should vote against this clause to ensure that the section in the Act is not repealed.

Mr. PERKINS: I gave a reasonable explanation of this amendment during the debate on the second reading. I cannot accept the arguments put forward by the member for Mt. Hawthorn. There is no need for the provision in the Act as it is now because the proposed fund will adequately cover any injured worker. There will be no question of the workers being unjustly treated. Therefore I hope the Committee will agree to this clause.

Mr. MOIR: Surely the Minister does not think we will believe that statement! If what he says is correct, why was there any necessity to place such a provision in the Act in the first place?

Mr. Perkins: There was no fund then.

Mr. MOIR: What difference will the fund make?

Mr. Perkins: It will provide a source from which an injured worker can receive his compensation payments.

Mr. MOIR: I agree that a worker will be paid his compensation, but he will not receive his payments so expeditiously as he does now.

Mr. Perkins: Oh!

Mr. MOIR: The Minister says, "Oh!", but I suggest to him he does not know the procedure a worker has to go through to obtain his compensation.

Mr. Perkins: He will make his claim to the employer; and if he does not receive any payment from him because the employer has failed to insure him, the worker will receive his compensation from this proposed fund.

Mr. MOIR: Does the Minister think it is as simple as that? He has to go through other procedure as well. When a worker is injured during the course of his employment and he is unable to continue with his work, he immediately loses his weekly wage. The Act provides, of course, that he must receive weekly payments of compensation after his case has been established. First of all, however, he has to ascertain whether his employer has insured him. In some instances that takes a considerable time. Having found that out, he then has to make his approach to the Workers' Compensation Board. Apart from that there are many other formalities that have to be observed before he receives his compensation payments.

I suggest, in all seriousness, that a worker could be injured and out of work for some considerable time and then could have resumed his employment before he received his compensation payments for his injury. I have had a fair amount of experience of workers' compensation claims against subcontractors, particularly in the firewood industry, which was a fairly large industry on the goldfields at one time. Considerable difficulty was experienced in those cases where a subcontractor was liable but had omitted to take out an insurance policy to cover his men. As a result, considerable delay was occasioned whilst the case was pursued to a successful conclusion.

The time that an injured worker requires that money is when he is off work, because his weekly commitments still have to be met. The Minister proposes, however, to delete this provision from the Act merely because a fund is to be established. I have my own views about such a fund, too. The existing provisions in the Act are fair and adequate and place the responsibility upon the employer to insure his workers. The fourth schedule is the one which is specifically mentioned in section 16, and that schedule covers those callings where accidents happen frequently. Among them are included mining, quarrying, excavation work, erection or demolition of any building, driving of any vehicle, etc. That is the section this clause seeks to repeal. Take, for example, a worker who is employed by a subcontractor on the Ord River dam project. If there were no obligation upon him to insure his men, he would not insure them.

Mr. Perkins: There is an obligation upon him to insure his men.

Mr. MOIR: Why not leave the section in the Act, then?

Mr. Perkins: The obligation upon him to insure his men is contained in other sections of the Act.

Mr. MOIR: If the obligation is on a subcontractor to insure his men, he makes sure he does insure them. If a worker employed in a far-flung part of the State is injured, there is provision in the Act that he shall be insured and will receive his weekly payments of compensation without, firstly, having to find out whether he is insured; and, secondly, having to approach the Workers' Compensation Board to obtain his compensation. I am not speaking disparagingly of the board, because I have the greatest respect for it. I am merely pointing out the delay that occurs during the normal process of trying to obtain workers' compensation. The Minister is doing the wrong thing in repealing this section of the Act.

Mr. PERKINS: The member for Boulder is entirely wrong when he says that the obligation upon the employer to insure his workers is contained in section 16. If the honourable member will check the Act he will find that the obligation is contained in section 13, which is quite clear and definite on the point. The repeal of section 16 would do nothing to abrogate the obligation of the employer to insure his workers.

The member for Boulder referred to the great delay that occurs between the time a worker is injured and the time he receives his compensation payments. I am not quite sure of the procedure that is followed. However, I assure the honourable member that I will make some inquiries to ascertain whether it is possible for the Workers' Compensation Board to alter the procedure that is now followed so that the delays mentioned by the member for Boulder do not take place.

If any person is injured during his employment and it is found that his employer has failed to insure him, the injured worker should not be penalised. He should be paid his compensation and the board would then take action against the employer. I would point out that the penalties imposed on such an employer for a breach of the Act are very severe. A great deal of the redrafting of the Bill has been done to ensure that the employer will honour his obligations to his employees and that a proper assessment can be made of his liability under the Act. Should any further amendment be required to obviate delays I will arrange for this to be moved in another place.

Mr. W. HEGNEY: I am not satisfied with the Minister's reply. He referred to the following clause in relation to this one, which seeks to repeal section 16. Since he has referred to the following clause, I think I would be in order in referring to it also.

Mr. Perkins: Which is the following clause?

Mr. W. HEGNEY: Clause 8.

Mr. Perkins: The honourable member is making a mistake. I did not refer to that clause; I referred to section 16 of the Act.

Mr. W. HEGNEY: The member for Boulder made reference to uninsured workers and the Minister said that these uninsured workers were to be covered by a further clause in the Bill; namely, clause 8.

Mr. Perkins: I was referring to section 13 of the Act.

Mr. W. HEGNEY: That section deals with obligatory insurance. I did not say that section 16 provided for compulsory insurance.

Mr. Perkins: The member for Boulder did.

Mr. W. HEGNEY: Section 16 pinpoints the liability of both the contractor and the principal in respect of insurance coverage.

Mr. Perkins: You are referring to a different matter. That was the point made by the member for Boulder.

Mr. W. HEGNEY: The repeal of section 16 is closely related to clause 8 as well. I contend that section 16 should be retained in the Act. The Minister said that the uninsured workers would be covered. I do not dispute that; but the point is that in the Act there is at present coverage for uninsured workers. If there is already a provision for such an injured worker to be covered, what is the underlying reason for the repeal of section 16?

Mr. Perkins: It is redundant.

Mr. W. HEGNEY: If it is, then it must have been redundant when the provision was included in the Act in 1948 by a Government supported by the Minister. I refer to the wording of section 16, which has been in the Act for over 12 years; yet the Minister wants to repeal it because he says that it is redundant. I agree there is a limiting provision in subsection (5) (d) of section 27.

The CHAIRMAN (Mr. Roberts): I cannot allow the honourable member to proceed along these lines. We are dealing with clause 7, which seeks to repeal section 16.

Mr. W. HEGNEY: What I am saying has direct relationship to the repeal of section 16. I have to show justification for its retention. The Minister has advanced a reason for the repeal of that section; he said that it was redundant, and that the position would be covered by another clause in the Bill. I say it is not redundant, because there is a provision in the Act covering uninsured workers, but only to a limited extent. I refer to the wording of subsection (5) (d) of section 27, which is dealt with by clause 8 of the Bill. This

subsection empowers the board to levy contributions to the fund. As there is this limited provision to protect uninsured workers, section 16 is not redundant.

The Bill refers to the procedure which must be followed by uninsured workers to obtain payment. The point is that he can use those processes to obtain what he is entitled to. If a worker is not insured by his principal he should be entitled to be covered by the fund. I understand the fund amounts to some £3,500.

Mr. MOIR: I am still opposed to clause 7. Section 16 was included in the Act for specific purposes. We know there is a fund out of which uninsured workers can be paid. The Minister admits that an injured uninsured worker will experience trouble in obtaining payment if section 16 is repealed, because the Minister is making provision for a larger sum to be placed in the fund. He merely pointed out something I knew: every employer has to insure his workers. What we say is that if section 16 is repealed there will be more uninsured workers.

Mr. Perkins: I cannot see that.

Mr. MOIR: Why then is there a proposal to enlarge the fund? Apparently in the past the fund has not been sufficient. It has to be enlarged to meet the payment to uninsured workers.

Mr. Perkins: We have to be secure.

Mr. MOIR: The Minister is off the beam. He said there will not be undue or unnecessary delay in paying an uninsured worker.

Mr. Perkins: I am trying to clean up this question, and here you are stonewalling the Bill which seeks to help the workers. You will lose the Bill if you are not careful.

Mr. MOIR: We had an example of what the Minister did when he said he would re-examine a provision. He did that last night, but he refused to budge after re-examining it.

The CHAIRMAN (Mr. Roberts): The honourable member should keep to the clause.

Mr. MOIR: I am entitled to reply to the Minister's interjections. When the Minister said he would be prepared to look at the provision—

The CHAIRMAN (Mr. Roberts): Order! The honourable member will obey the Chair.

Mr. MOIR: The Minister cannot expedite the payment of the money to the uninsured worker. I have the utmost confidence in the Workers' Compensation Board. I know it will expedite payments when an application is received, but a delay will occur in payment in these cases. These are matters over which the Minister has no control. The Minister does not know whether workers are uninsured. He will not know until the workers become injured.

I protest against the delay which will eventuate when the worker becomes injured and applies to the Workers' Compensation Board. Of necessity there is a further delay if he does that, because of the processes that have to be followed. It is vital for an injured worker to receive weekly payments as soon as possible. In the goldmining industry generally payments are made within a fortnight on the ordinary pay day. In some cases there might be a slight delay, but that would be unusual.

If section 16 is repealed, prompt payments will not be made, because the Workers' Compensation Board will have to take the necessary action. It will take an uninsured worker some time to find out that his employer has not insured him. It is when inquiries are made that this fact is discovered. Inquiries are made only when the injured worker or his family do not receive payment. Inquiries have then to be made as to whether the employer or subcontractor has insured the worker; if he has not, then the other machinery is set in motion. I say that an unnecessary delay is going to take place, and I strongly oppose the deletion of this clause from the Bill.

Mr. BRADY: I feel that the Minister is doing the wrong thing by all parties concerned with workers' compensation in attempting to remove this clause from the Bill; because, for over 12 years now, all sections of industry and commerce have been aware of the fact that workers have to be covered by compensation. It has been a good educational medium for all sections of the industry. Any reliable contractor or subcontractor now knows that when he takes on a contract he must make ample provision for workers' compensation insurance.

But if it is going to become a case of willy-nilly insuring the employees—some principals are going to insure, some contractors are going to insure, and some subcontractors are going to insure—it is going to become a hotchpotch. It is not going to be clear to anybody on whom the main obligation rests, and there will be difficulties. Some principals will say, "I will give you this contract if you do the insuring." Another subcontractor will say, "I will take on the contract provided the contractor does the insuring." It will be a case of the one passing the buck to the other.

I feel that at the moment the average worker in industry is reasonably covered. We should give these workers the maximum coverage because there is nothing

worse than for a worker to have an accident and then find he cannot get prompt payment of compensation for himself and his family. It undermines his confidence in his employer, the subcontractor, and all concerned.

I feel that the Minister has not put up a case and that he is hiding something from this House. Why does not the Minister tell us the full facts as to why he—as the Minister—or the insurance companies, or the board, wants to have this removal? We have only the statement to this House as to what is the genesis of the removal of this particular clause. If the Minister knows something, and it is aboveboard, let him tell the House what it is.

If the insurance companies have gone to the Minister and said, "Look, don't be worried about this; we are making plenty out of insurance and we are prepared to pay an extra rate to the insurance board for an extra premium to cover these contingencies," let the Minister tell us that. Up to date, all he is saying is that the worker will be covered because there is a certain fund.

I recently said—and I still believe it—that whilst there is a minimum payment being made out of this insurance fund, nobody is going to worry; but there is going to be a lot of worry when the Minister has to sign a certificate that he wants about £40,000 or £50,000 to cover people who thought they were covered by their employer, whether he was a subcontractor, or a contractor, or the principal. I do not want there to be any doubt, in this day and age when there is a lot of competition—particularly in the building trade—as to who is going to have these people covered.

There are certain matters in section 13 that are not referred to in section 16; and there are certain things in section 16 that are not referred to in section 13. Why does not the Minister tell us whether these contingencies and provisos are going to be amply covered, if section 16 is deleted? The Minister has not given us a comprehensive statement in regard to the overall position. As far as I can see, the Minister has, all along the line, endeavoured to cover up for the insurance companies. I feel he has an obligation to employees in industry just as much as to the insurance companies.

All we want to know is the whole story —what is behind this. In the past we have had members with very high degrees in the legal profession sitting on this side of the House, representing the Liberal-Country Party Government, handling this Bill year in and year out in all its stages; and yet the Minister tells us that the section has not been necessary for the past 12 years.

Are we to believe that men like Sir Ross McDonald did not know what they were talking about; that the ex-member for North Perth did not know what he was talking about; that the Attorney-General in this Government does not know what he is talking about? Why have they not brought these matters before the House before and told us this section was not necessary?

I feel the Minister is not giving us the full story or the real reason for deleting this section. I am concerned with the average worker, who is trying to earn his living. He has not the time to see whether the subcontractor, and the contractor, and the principal, and all these other people, are doing the right thing by him as an employee. All he is concerned with is the fact that if he has an accident he receives his compensation; and, if he happens to be killed while employed in industry, that his widow gets the compensation. Before I would be prepared to vote for the removal of section 16 I would want to know from the Minister that all these contingencies to which I have referred are covered. The Minister has not shown us that that is the position. I am opposed to the removal of the section unless the Minister can give us a good deal more information than he has up to date.

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

Ayes—25.	
Mr. Bovell	Mr. Mann
Mr. Brand	Mr. W. A. Manning
Mr. Burt	Sir Ross McLarty
Mr. Cornell	Mr. Nalder
Mr. Court	Mr. Nimmo
Mr. Craig	Mr. O'Connor
Mr. Crommelin	Mr. O'Neil
Mr. Grayden	Mr. Owen
Mr. Guthrie	Mr. Perkins.
Mr. Hearman	Mr. Watts
Dr. Henn	Mr. Wild
Mr. Hutchinson	Mr. I. W. Manning
Mr. Lewis	*(Teller.)*
Noes—23.	
Mr. Andrew	Mr. Kelly
Mr. Bickerton	Mr. Moir
Mr. Brady	Mr. Norton
Mr. Curran	Mr. Nulsen
Mr. Evans	Mr. Oldfield
Mr. Fletcher	Mr. Rhatigan
Mr. Hall	Mr. Rowberry
Mr. Hawke	Mr. Seweil
Mr. Heal	Mr. Toms
Mr. J. Hegney	Mr. Tonkin
Mr. W. Hegney	Mr. May
Mr. Jamieson	*(Teller.)*

Majority for—2.

Clause thus passed.

Clause 8 put and passed.

Clause 9—Section 29 amended:

Mr. W. Hegney: I move an amendment—

> Page 7, line 4—Insert after the word "and" the following to stand as subparagraph (xv):—
>
> awarding to an injured person amounts in excess of those prescribed for medical and hospital expenses in the First Schedule to this Act.

Section 29 of the Act says:

> Without limiting the generality of the provisions of subsection (1) of this section, the jurisdiction of the Board shall extend to—

It then sets out certain jurisdictions. I propose to extend that list by authorising the board to award greater amounts for hospital and medical expenses than those prescribed in the first schedule.

This provision is in operation in New South Wales. As I mentioned previously, in Tasmania an amount of £1,000 at least is payable for hospital and medical expenses as against the proposed £400 in Western Australia. In Victoria an incapacitated worker is entitled to all reasonable medical and hospital expenses; and if there is a dispute as to what are reasonable medical and hospital expenses the matter is then one between the employer and the parties concerned; and the worker is in no way legally liable for such expenses. I think that is a reasonable proposal. When a worker is injured in the course of his employment, why should he be subjected to substantial legal and medical expenses?

I have pointed out that even with this amendment, as proposed in the Bill, to extend the hospital expenses to £250, the actual increase is only £70, because basic-wage fluctuations have made the present-day amount in the vicinity of £179 or £180. In regard to the medical expenses, which will be £150, that has been increased to a certain amount—I think by about £19—which means there will be an increase of only another £31 and not £50.

Let us take the figure for hospital expenses as being £250. I understand that the Workers' Compensation Board has set down a figure of £3 10s. a day for hospital expenses. That works out at £24 10s. a week. After 10 weeks the £250 would be practically non-existent; and, after that, the worker who sustained a serious injury and who was obliged to be hospitalised for a period longer than 10 weeks would be legally liable for the balance of his expenses. The same applies to medical expenses where a worker has to attend a doctor for a long period of time.

The Workers' Compensation Board has been set up by statute. The chairman is a highly-qualified legal practitioner—I understand he is qualified to be a judge of the Supreme Court—and there is a representative of the insurers and the employees on the board. That board has been operating satisfactorily for the last 12 years, and it is one which recognises its responsibilities.

A measure of social justice would be meted out to injured workers if the Workers' Compensation Board were authorised to use its discretion in granting amounts over and above that prescribed for medical and hospital expenses under the first schedule to the Act. As a matter of fact there is a precedent for this. I mentioned before that in New South Wales and Victoria the provisions are far more generous than those operating here; and in Tasmania an amount in the vicinity of £1,000 is allowed for medical and hospital expenses.

In 1948, a Workers' Compensation Bill was being discussed in another place, and at page 2283 of *Hansard* of the 10th November, 1948, Dr. Hislop is reported as having moved the following amendment:—

> That in paragraph (a) a new paragraph be inserted as follows:—
>
> > "(ii) by inserting after the word "pounds" in line 16 the words "except when the Board is of opinion, having regard to the circumstances of the case, that such an amount is inadequate, in which event the Board may allow such additional amount as it deems necessary or expedient."

During the course of his remarks on the second reading, at page 2021, Dr. Hislop is reported to have said—

> I would like to reserve detailed remarks until the Committee stage and therefore I will not reply to Mr. Baxter at the moment but I am quite willing to debate it with him in Committee. I would put this to Mr. Baxter:

Mr. Bovell: How long ago was this?

Mr. W. HEGNEY: Only 12 years ago. If a man with Dr. Hislop's standing and experience, and with his knowledge of workers' compensation, had this idea 12 years ago, surely the Government is not so stodgy and obstinate that it is not going to have regard to present-day trends and deny workers in this State a reasonable measure of justice? If it was justified 12 years ago it is more than amply justified today. The doctor went on—

> Does he expect that industry has a right to go to a profession and say,—

Mr. Bovell: You mean the late Mr. Baxter?

Mr. W. HEGNEY: I did not interrupt the Minister when he took two hours to introduce the Reserves Bill.

Mr. Bovell: I am correcting you; it was the late Mr. Baxter.

Mr. W. HEGNEY: To continue with the doctor's remarks—

> —"We will come to an agreement with you to treat our workers up to a certain point of injury and then beyond that we ask that they be dealt with on the basis of your charity?" Is industry entitled to do that? It is a point we have to face and comparison with the other States does not really carry any weight at all when we realise that if we make it £25 to cover hospital and medical expenses,

all that we will be doing is asking the nursing and medical professions to carry industry's burden. Does the honourable member want that? If we do not do that, then the injured workers must go to the Government hospitals and their serious injuries be treated by the State and again at the charity of the medical profession which does its work in an honorary capacity at these hospitals. Does industry want that? There is no longer any justification whatever for the £100 limit.

I shall not read any more at this stage; but I read that to justify the amendment I have moved. Injured workers are entitled to amounts greater than those set out in the first schedule.

I am wondering why the Minister has not increased the amount for medical expenses and hospital expenses on a *pro rata* basis. When the amount for medical expenses was first fixed, medical fees were much lower than they are today, and hospital fees were certainly nowhere near as high as they are today. My point is that a worker who is seriously injured in industry should be entitled to have all liability in regard to medical and hospital treatment taken from him.

The Minister said that there would be only a few cases per 1,000 where the medical and hospital expenses would be exceeded. That may be so; but if any cases occur they should be covered. Surely it cannot be said that the Workers' Compensation Board would grant increases over and above the figures set out in the first schedule unless it was satisfied that such increases were justifiable. The Minister might say that my amendment is not in the right place, and that it should be in the first schedule.

The CHAIRMAN (Mr. Roberts): Order! The honourable member's time has expired.

Progress reported, and leave granted to sit again.

BILLS (6)—RETURNED

1. Optometrists Act Amendment Bill.
   Bill returned from the Council with amendments.
2. Country Areas Water Supply Act Amendment Bill.
3. Education Act Amendment Bill.
4. Government Employees (Promotions Appeal Board) Act Amendment Bill.
5. Public Service Appeal Board Act Amendment Bill.
6. Milk Act Amendment Bill.
   Bills returned from the Council without amendment.

ADJOURNMENT OF THE HOUSE: SPECIAL

MR. BRAND (Greenough—Premier) I move—

That the House at its rising adjourn until 11 a.m. tomorrow.

Question put and passed.

House adjourned at 6.15 p.m.

Legislative Council

Friday, the 18th November, 1960

CONTENTS

The PRESIDENT took the Chair at 2.30 p.m., and read prayers.

ROAD CLOSURE BILL

Second Reading

Order of the Day read for the resumption of the debate from the 17th November.

Question put and passed.

Bill read a second time.

In Committee

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

Third Reading

On motion by The Hon. A. F. Griffith (Minister for Mines), Bill read a third time, and passed.