The United Kingdom also passed appropriate legislation in 1959. New Zealand legislated in this matter much earlier—in 1948—and with respect to purely intrastate flights, Bills were passed in New South Wales in 1952, in Victoria in 1953, and in Tasmania last year. This Bill is similar to those passed in the other States.

This measure, when it passes into an Act, will uphold two principles. First, no action lies for trespass or nuisance arising out of the flight of an aircraft over any property at a height that is reasonable in the existing circumstances on condition that the Commonwealth Air Navigation Regulations are complied with. The second principle is that a person who suffers damage to his person or property caused by a person in an aircraft or by an article, animal, or person falling from an aircraft while in flight, taking off, or landing, can recover damages from the owner of an aircraft without proof of negligence; this, bearing in mind the proviso that the claimant himself is not guilty of contributory negligence.

It should be appreciated, however, that while this Bill enunciates two clear principles which do not necessarily alter the law, the passing of it will clarify the law in these matters. It could be argued that flight over land is a trespass equally with motoring across it, so the Bill proclaims in effect that planes are entitled to use air routes while observing navigation regulations and maintaining reasonable height without becoming liable for trespass or nuisance. On the other hand, there is no intention of authorising any act of nuisance or disposing of liability brought about through aircraft damaging persons or property by contemplated or unforeseen happenings.

It does set out, nevertheless, that it should be necessary for a claimant to prove negligence on the part of the owners or those operating the aircraft in order to successfully pursue a claim for damages. Simply, the Bill resolves any doubt or suggestion that a claimant need prove negligence, which, in actual practice, it would be most likely quite impossible for him to do, especially in the case of an aircraft crash in which all occupants could have perished.

Turning to the particular provisions in the Bill, it will be seen that in subclause (1) of clause 5, damages are recoverable from the owner of the aircraft; and under subclause (2), should a legal liability be created in some other person than the owner, the owner would be entitled to be indemnified by that person against any claim in respect of loss or damage. Under subclause (3) which covers hired aircraft, the person to whom the aircraft has been chartered or hired, would become responsible if neither the pilot, commander, navigator, nor operative member of its crew was in the employment of the owner.

From this it will be seen that should a passenger negligently, for instance, or deliberately throw his luggage overboard, a claim for damages would still be made against the owner, who would be entitled to be indemnified by the passenger concerned.

With regard to my earlier reference to liquid spray, this is contained in the definition of "article". The insertion of these words in the definition disposes of any doubt that such substances are covered by the provisions of the Bill. There is a reason for this. The New Zealand Bill was judicially considered in connection with aerial spraying in 1961, and though the New Zealand Court of Appeal held that, in the circumstances of the case, the word "article" in their definition included liquid and liquid spray, though they were not specifically mentioned, there are no known Australian authorities on the point. Therefore there are advantages in placing the matter beyond doubt by including those substances in the interpretation.

However, there is another good reason. Should it be desirable to introduce specific legislation dealing with aerial spraying control, the reference could be quite useful.

Debate adjourned, on motion by Mr. Hawke (Leader of the Opposition).

House adjourned at 5.23 p.m.

Legislative Council

Tuesday, the 15th September, 1964

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CONTENTS—*continued*

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

QUESTIONS ON NOTICE

SUPERPHOSPHATE

Production by Esperance Superphosphate Works

1. The Hon. R. H. C. STUBBS asked the Minister for Local Government:

(1) Is there any substance in the rumour circulating through the Mallee-Salmon Gums area that the Esperance Superphosphate Works will be unable to supply all the requirements of the districts concerned in sufficient quantity to meet the current demands?

Added Cost of Metropolitan Product

(2) If so, will superphosphate purchased from the metropolitan area by the farmers have to bear the costs additional to those that will be involved in landing Esperance produced superphosphate at their sidings?

The Hon. L. A. LOGAN replied:

(1) and (2) The Esperance superphosphate works are expected to commence superphosphate production very soon, and to be able to supply bulk superphosphate from November onwards. Bagged superphosphate is not likely to be available till about February, 1965. The total quantity which will be available up to the 30th June, 1965, cannot be accurately forecast but it is hoped it will meet all or a large part of the demand in the Esperance district.

The agreement between the Esperance Superphosphate Company and the Government for the works construction stipulates that one third of the superphosphate requirements of all users in the Esperance area in 1964-65 shall be provided f.o.r. Esperance at the same price charged f.o.r. Albany works.

If all demands for superphosphate from the Esperance area in 1964-65 cannot be met from the Esperance works, the deficiency will be supplied from metropolitan works. No consideration has been given to any variation in normal transport charges on any superphosphate supplied from metropolitan works.

SILICOSIS

Fund for Payment of Percentage Disability

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

(1) Is there a fund or an amount set aside for providing payment to miners suffering from various percentages of disability due to silicosis?

(2) If so—

(a) when was it first established;

(b) how is it financed;

(c) what is the financial balance at the 30th June, 1964?

The Hon. A. F. GRIFFITH replied:

(1) The Mine Workers' Relief Fund, established under the provisions of the Mine Workers' Relief Act, provides compensation as set out in such Act for mine workers affected by tuberculosis and silicosis and silicosis advanced.

(2) (a) 1932.

(b) By contributions from mine owners, mine workers and the State Government.

(c) The credit balance at the 31st January, 1964, was £247,932. The fund's accounts are balanced on the 31st January of each year. Financial statement and auditor's report were tabled for information of members on the 25th August, 1964.

RAILWAY GUARDS

Employment in Goods Sheds

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

Further to my question on Wednesday, the 12th August, 1964, relating to the employment of W.A.G.R. guards in goods sheds—

(a) In the general practice to utilise guards in goods sheds or on station duties during periods when normal work on trains is unavailable, is it not possible to show more consideration to guards senior in age and service?

(b) Prior to the expanded use of railway buses, was there not in existence a "gentlemen's agreement" under which express guards would not be used to run goods trains or be asked to perform other than passenger work except in cases of emergency?

(c) If this were so, why has there been a departure from this policy?

(d) On what date was the present policy first initiated?

(e) How many men have, because of the new policy, been deprived of the benefits to which they were previously entitled under the "held away from home allowance" which was obtained under arbitration?

(f) Is it just to avoid an obligation imposed by a provision of an award in the manner adopted by the Railways Department in connection with the policy now in question?

The Hon. A. F. GRIFFITH replied:

(a) Generally, guards are only required to perform duties commensurate with their ages and within their physical capabilities.

(b) It was the practice so far as train working was concerned to confine senior guards to passenger train working wherever possible.

(c) There has been no change in policy. Passenger train services have been curtailed, and senior guards have had to be given other work to complete the 40-hour working week.

(d) The present arrangement that senior Perth guards booked off at Merredin should perform goods shed work at that depot was introduced on Sunday, the 5th July, 1964.

(e) Nine guards working the Perth-Merredin express link are affected by the new arrangement but their pay remains the same.

(f) The guaranteed week provisions of the award require that a guard is to be paid for not less than 40 hours in each week and rosters are prepared in such a way that guards will work as near as possible to this number of hours, and so reduce the incidence of time paid for but not worked. Without the work at Merredin, working time for the nine guards would fall considerably short of the forty hours required to be paid for. The action taken is justified and is not inconsistent with the award.

LOADING KIBBLES AT ESPERANCE

Hiring Charges

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

In reference to the loading kibbles owned by the Government at the port of Esperance, what hiring charges have been received by the Treasurer for their use from—

(a) Ravensthorpe Copper Mine, N.L.;

(b) Garrick Agnew Pty. Ltd.;

(c) yearly from the time of their installation to the 30th June, 1964?

The Hon. A. F. GRIFFITH replied:

(a) Ravensthorpe Copper Mines N.L. pay to the Treasurer 3s. 9d. per ton on all concentrates shipped. This charge is for the hire of loading and storage facilities including the kibbles.

	Total charges are : £ s. d.	Estimated portion for kibbles is : £
1959–60	421 19 8	79
1960–61	911 5 1	170
1961–62	1,215 15 3	227
1962–63	943 14 9	176
1963–64	466 4 7	83

(b) Nil. This company pays 4s. per ton wharfage and handling charges but does not pay a hire charge to the Treasurer for the use of kibbles.

(c) Answered by (a) above.

HOUSING AT FREMANTLE

Single-unit Accommodation for Women: Commission's Intentions

5. The Hon. R. THOMPSON asked the Minister for Housing:

(1) Is it the intention of the State Housing Commission to construct single-unit accommodation for women in the Fremantle area in the near future?

(2) If the reply to (1) is "Yes"—

(a) when will they be constructed;

(b) where will they be situated;

(c) how many units are envisaged?

(3) If the reply to (1) is "No", why is the area being denied this type of accommodation in view of the demand and the number of applications received by the commission?

The Hon. A. F. GRIFFITH replied:

(1) to (3) The commission has examined a number of sites in the Fremantle area and these, for various reasons, could not be utilised at present. Further investigations are now being made in regard to engineering problems and availability of services at another site considered suitable, but it is unlikely that this site will be ready for building operations this financial year.

ACCIDENTS WITH TRACTORS

Installation of Protective Cover

6. The Hon. J. DOLAN asked the Minister for Mines:

(1) Is the Minister aware that in the Scandinavian countries of Norway and Sweden there used to be an annual average of over 20 fatalities caused through the overturning of tractors?

(2) Is he also aware that through government action in making it compulsory for all tractors to have a steel protective cover for the driver, fatalities of this kind are now a rarity in those countries?

(3) In view of the many serious and fatal accidents of this nature in Western Australia, will the Government look at this question with a view to taking action along the lines mentioned in (2)?

The Hon. A. F. GRIFFITH replied:

(1) and (2) I am not aware of the legislation.

(3) The Government Statistician advised that there were no fatalities from tractor accidents in 1962, two children under 14 years of age in 1963—obviously not drivers—and one adult in the first quarter of 1964.

The Agricultural Safety Committee formed by the Department of Labour, whilst initially concentrating on accidents from pesticides, has adverted to tractor accidents and has encouraged an educational programme by having tractor safety films shown whenever possible.

WATER SUPPLIES: NEW RATING SYSTEM

Effect on Pensioner Cottages and Rental Homes at Merredin

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

Under the new system of water charges "pay as used" in the country—

(a) How will it affect—

(i) Pensioner cottages; and

(ii) tenants of State Housing Commission rental homes in the town of Merredin?

(b) Under the previous system was it not a fact that water rate charges were included in the rental charged?

(c) Could that still apply?

The Hon. A. F. GRIFFITH replied:

The answers to these questions can only be given when the full details of the scheme are released.

BILLS (2): INTRODUCTION AND FIRST READING

1. Legal Practitioners Act Amendment Bill.

2. Purchasers' Protection (Door Sales) Bill.

Bills introduced, on motions by The Hon. A. F. Griffith (Minister for Justice), and read a first time.

WORKERS' COMPENSATION ACT

Provisions of Amending Legislation: Motion

Debate resumed, from the 10th September, on the following motion by The Hon. R. Thompson:—

That, following upon the recent statement of the Hon. Premier that legislation would be introduced during this session to amend the Workers' Compensation Act, this House is of the opinion that the amending Bill should include, among other desirable provisions, the following:—

(a) Insurance cover for workers travelling to and from place of employment and place of work.

(b) Removal of all legal liability for payment by workers in respect of medicinal and hospital expenses incurred as a result of injury.

(c) Substantial increases in compensation payments including those contained in the schedules.

(d) Compensation for industrial diseases or disabilities not already covered by the Act.

(e) More reasonable treatment for partially incapacitated workers in certain circumstances.

President's Ruling

The PRESIDENT (The Hon. L. C. Diver): I give the following ruling in reply to the request of The Hon. H. K. Watson as to whether the motion of Mr. Thompson infringes Standing Order No. 392:—

Having studied the reference to the proposed amendment of the Workers' Compensation Act referred to in the motion, I find this to be of a very general nature without detail of any kind.

I feel that the intention of Standing Order 392 is to prevent discussion in this House of Bills or motions which are actually before the Assembly or of which formal notice of introduction has been given. Neither of these conditions applies at the present time.

For these reasons I consider that the motion is in order and that The Hon. R. Thompson should be permitted to resume his address.

Debate (on motion) Resumed

The Hon. R. THOMPSON: Thank you, Mr. President. The object of presenting a motion of this nature to the House is to particularly fix the attention of members on the disparity between the legislation ruling in Western Australia at the present time and the legislation in the other States throughout the Commonwealth. From time to time we hear that we cannot do this or that because we are not a standard State and that we cannot go beyond a measure that a standard State has in existence. However, as far as this motion goes, it has no bearing whatsoever on whether we are a standard State or not. Every State has the privilege and right, without having regard to loan moneys, to introduce legislation to satisfy the needs of its workers.

This motion has been moved in the hope that the Chamber will take notice so that when legislation is brought before the House provision will be made to incorporate the points in the motion. I believe that on 19 occasions in the past, either through legislation or through motions of this nature, attempts have been made to amend the Workers' Compensation Act along these lines. I do not say that they were strictly in this order or that they included even the five points in this motion; but from time to time on 19 occasions we have made an effort to incorporate in legislation something that would, within reason, lift the provisions of our Workers' Compensation Act to those applying in New South Wales and, in some instances, the other States throughout the Commonwealth.

I have expressed my own views previously in this Chamber and I think the Workers' Compensation Act, with slight variations, should be uniform throughout Australia. It seems ridiculous to me that a worker can follow his trade or calling in Western Australia, be seriously injured, and receive a lesser amount than if he were working in New South Wales and injured there. Therefore, I think it is only right that there should be some level of compensation payments throughout the Commonwealth instead of the haphazard legislation that we now have from State to State whereby workers do not know, when they travel interstate, what type of compensation or restrictions will be placed on them, or how their families will fare in the case of their death.

If members compare our Workers' Compensation Act, section by section, with the Acts of New South Wales, Victoria, Queensland, Tasmania, or South Australia, they will find that in some instances the benefits under our Act are superior; but taken overall our Act would definitely be the worst in the Commonwealth. That was not always so. In 1925, when the late Alex McCallum was in charge of this legislation, we had what was possibly the best Workers' Compensation Act in Australia; but it has slipped down over the years till we find ourselves in this present position.

It has been said from time to time in answer to points raised in debate, and to motions of this kind, that the McLarty-Watts Government during its term of office from 1947 to 1953 amended the Act. That is quite true. It did amend the Act on several occasions; but they were machinery amendments—amendments that only took charge of a situation with which the Government was confronted at the time. We did much the same last year in respect of lifting medical benefits and hospital benefits. This Government did raise them; and it was the only significant amendment made to the Act. However, these increases were used up before they were actually put into the legislation, because anyone who is off work for a lengthy period must use some of the lump sum settlement that would normally be his if he had short hospitalisation with the same permanent or partial incapacity.

Therefore we ask that this be taken into consideration. From time to time we have heard election promises and statements, which I have in a file here, that the Government would introduce amending legislation to the Workers' Compensation

Act. But what has happened? We have had possibly three or four amendments and these have been much in line with what I outlined in regard to the amendments introduced by the McLarty-Watts Government. They have been of a very small nature, with the probable exception of those affecting silicosis—and I notice the Minister going for his pad. That legislation did lean a little towards the sufferers of silicosis and other diseases contracted in the mines; but by and large the amendments we have had during the life of this Government have not been of any worth-while value to the person who suffers from a long-term accident. I think the legislation in regard to silicosis contained one provision whereby a six months' limitatilon was put on a person if he resided in another State and contracted silicosis.

Returning to the motion, we find that the first item deals with insurance cover for workers travelling to and from their place of employment and place of work. A lot of members may say this would cost the employers a great deal of money; but if they have a close look at the premiums paid by employers in other States at the present time—there are only two States that issue reports which give these figures, Queensland and New South Wales—they will find that the insurance companies can well bear the cost of giving this coverage to every worker in Western Australia, either from his place of residence or from his place of employment and—as is the case in other States—to his place of pick up or to his camp.

When we look at the profit margins in comparison with compensation payments over the last few years—I took out figures for six years—we find that company profits have risen by 12.5 per cent., and there has been a decrease in compensation payments of 41.6 per cent.

People are becoming more safety conscious. They are not allowing themselves to become injured. In addition, employers are improving their production methods and they are also becoming more safety conscious. Company profits have risen by 12½ per cent., but compensation payments have decreased by 41 per cent.

Regarding journeying claims, in Queensland the claims on behalf of people travelling to and from work—these are 1963 figures—are 2.81 per cent. of the total claims for compensation in that State. In New South Wales the figure is 6.92 per cent. of the total claims for compensation.

The Hon. G. C. MacKinnon: What are the differences in the to-and-from clauses?

The Hon. R. THOMPSON: I will give the honourable member the information in a minute. These percentages include those cases which had to go to common law for settlement. Of all the claims for compensation, 5½ per cent. are for coverage to and from work. In the States of Queensland and New South Wales we find there has been a decrease of 41.6 per cent. in compensation payments.

Figures reveal that insurance companies had 30 per cent. gross profit over all compensation claims. If the ratio were the same in Western Australia, the figures demonstrate that companies could well absorb, without extra cost to either employers or employees, this coverage. The overall figures for insurance companies throughout Western Australia show, for the year July, 1963 to June, 1964, a gross profit of £1,800,000. This is a considerable sum, and some of it could be diverted back to those people who are entitled to a form of coverage which they have not so far enjoyed.

Members may have noticed that in last Thursday's *Daily News* a blacksmith's striker in New South Wales received compensation of £1,750 for deafness which was the result of the blacksmith striking his own hammer. On the next page was an account of a person in Western Australia who suffered disabilities as a result of a motor vehicle accident. His disabilities were of a minor nature which prevented him from following his normal occupation but not from taking on another job. That person received compensation of £5,000. If the blacksmith's striker had been in Western Australia he would not have received any compensation for his disability; but because he was in New South Wales he was able successfully to claim for compensation and be awarded £1,750 for deafness. However, I will deal with industrial disabilities at a later stage.

Mr. MacKinnon asked what are the conditions in the various States. The following figures are taken from the *Conspectus of Workers' Compensation Acts in Australia as at 1st January, 1964*. I am quoting from the to-and-from work clauses, table C, paragraph (c). It says as follows:—

> Travelling to and from his home or place of employment or between either place and any trade, technical or other training school which he is required or expected to attend.

He has full compensation coverage.

The Hon. G. C. MacKinnon: What State is this?

The Hon. R. THOMPSON: New South Wales. Continuing—

> (d) Travelling for treatment, etc., while on compensation for a previous injury.

The Hon. R. F. Hutchison: We are the only State that hasn't got it.

The Hon. R. THOMPSON: Continuing further—

> (e) Travelling between place of residence and place of pick-up.

(f) Travelling between camp or place of temporary residence for purpose of employment to place of abode when not so residing.

(g) Attending "pick-up."

Liability extends to worker engaged in New South Wales by New South Wales employer but whose employment takes him outside New South Wales or even outside the Commonwealth.

If a person is employed in New South Wales and is sent overseas, he can still claim compensation from his employer although he might not have been actually engaging in his occupation at the time. He could have been travelling.

Regarding Victoria, I am prepared to submit all the clauses to the House. I will read all of them if members so wish, although I propose at this stage to read out the pertinent clauses of each State.

The Hon. G. C. MacKinnon: I was mainly interested in the differences.

The Hon. R. THOMPSON: In Victoria the conditions are as follows:—

Personal injury arising out of or in the course of employment. This is deemed to include injury while—

(a) At place of employment.

(b) Having been so present is temporarily absent during any ordinary recess without voluntarily subjecting himself to abnormal risk of injury.

(c) Travelling to or from his home and place of employment or between either place and any trade, technical or other training school which he is required or expected to attend.

(d) Travelling for treatment, etc., while on compensation for a previous injury.

(e) Travelling between place of residence and place of pick-up.

Paragraph (f) refers to trade school. The other conditions apply when workers are outside of Victoria but not outside the Commonwealth. In Queensland, the condition is as follows:—

While travelling between place of residence and place of "pick-up" (which term includes State Employment Exchanges).

In South Australia the condition is as follows:—

Travelling between his place of employment or place of residence and any trade, technical or other training school which he is required to attend.

There are some other conditions by which a worker can be temporarily absent from his place of employment and still be covered. In Western Australia the condition is as follows:—

Personal injury by accident arising out of or in the course of employment or while worker is acting under the employer's instructions, or while travelling during working hours between his place of employment and any trade, technical school, etc., which he is required to attend, or while attending school.

There is no coverage between his place of residence, his camp, and his place of employment. The condition for Commonwealth employees is as follows:—

Whilst travelling to or from work or while attending any trade school, etc., which he is required or expected to attend or while travelling to or from such school, or while travelling for medical attention whilst on compensation for a previous injury.

The condition for the Australian Capital Territory is the same as for Commonwealth employees. The seamen's Commonwealth award is in line with New South Wales and Victoria. It is covered by the Mercantile Marine Act. A seaman can be temporarily living in Western Australia and be injured on his way to work. He would still be covered by the Act of his respective State. The condition for the Northern Territory is the same as for Commonwealth employees. There is to-and-from work coverage in Papua-New Guinea. Members can therefore see that Western Australia is the only State—

The Hon. G. C. MacKinnon: You haven't mentioned Tasmania.

The Hon. R. THOMPSON: Tasmania is similar to South Australia, except for conditions (e) and (f).

The PRESIDENT (The Hon. L. C. Diver): The honourable member must address the Chair.

The Hon. R. THOMPSON: Yes, Mr. President. So although we have promises of amending legislation from time to time, we find that those promises are "fizzogs," because when such legislation is introduced there is nothing concrete contained in it as in the legislation enjoyed by other States of Australia and even in the territory of Papua.

I now come to the second point in the motion, and it refers to an amendment which we hope the Government will introduce. It relates to the removal of the limit placed on medical and hospital expenses. Possibly metropolitan Labor members are more acquainted with this particular aspect of workers' compensation

than are other members, with the exception, perhaps, of Dr. Hislop, who deals with a great many workers' compensation cases.

The Hon. G. Bennetts: Those members representing the goldfields would have a fair knowledge of it, too, I should think.

The Hon. R. THOMPSON: That is so; my apologies to those members. The limitations placed on hospital and medical expenses seriously affect the net amount that can be claimed by the worker for compensable accidents.

After an injured worker has exhausted the statutory sums of £200 for medical expenses and £250 for hospital expenses he could, if the law were carried out to the letter, be called upon to pay any moneys in excess of those amounts. That has actually happened, and it is not fair treatment to any worker who is injured during the course of his employment. He should not be subjected to any risk at his employment; and he should not, following an injury, be out of pocket if his hospital and medical expenses exceed the statutory limits.

A good comparison can be drawn with the amounts that are awarded in the court to a person who has been injured as a result of being involved in a motor vehicle accident, even in those cases where the injury does not render the victim unfit for work. In many instances large sums have been awarded against the Motor Vehicle Insurance Trust—sums which rather overshadow the amounts that are prescribed and awarded to an injured worker under the Workers' Compensation Act. Therefore, it is strongly suggested that the limits placed on hospital and medical expenses should be removed.

The Hon. G. C. MacKinnon: In paragraph (b) of your motion the word "medicinal" is used. Should it be "medical"?

The Hon. R. THOMPSON: Yes. In New South Wales, Victoria, South Australia, Queensland, and Tasmania, when hospital and medical expenses form the basis of an argument, the worker does not enter into it in any way. In those States the argument takes place between the medical practitioner, the hospital, and the insurance company. The expenses are of no concern to the worker whatsover. In my opinion, therefore, our Act in this State should be made to conform with the legislation of other States in this respect. I think we can have sufficient faith in the members of the medical profession to feel confident that they are doing their utmost to rehabilitate injured workers in the quickest possible time. A medical practitioner would not subject an injured person to unwarranted medical treatment or prolonged hospitalisation.

In those other States there is a provision covering medical, hospital, ambulance, and other expenses relating to the injury suffered by the worker, but no limitation whatsoever is prescribed. Such a provision is most desirable and should be uniform throughout the Commonwealth.

I am not saying that the legislation in all States is uniform in regard to this provision and that Western Australia is out of step, but we do seem to be out of step in that the limitations placed on these expenses are a fixture. According to what I have ascertained over the years, in Queensland the provision, in effect, reads, "reasonable costs of medical, hospital, and nursing services." The amount prescribed for medical expenses is £125, and for hospital expenses £125. I am selecting the worst State in drawing a comparison with Western Australia. However, in that State these amounts are reviewed by a board and, in actual fact, no limit applies in the State of Queensland. If the doctor can produce conclusive proof to the insurance company that certain treatment and hospitalisation are necessary to rehabilitate an injured worker, the Act provides that no limits shall be imposed on the expenses for such treatment.

However, as I pointed out earlier, as soon as the maximum amount provided in the Act for medical and hospital expenses has been reached, the injured worker becomes liable for all treatment and hospitalisation in excess of the amounts prescribed. For example, if £200 has been expended on medical expenses and £500 on hospitalisation, one cannot offset the hospitalisation expenses by deducting £100 from the £500 and adding it to the £200 for medical expenses. Each statutory amount has been prescribed for a set purpose.

This means that if an injured worker received extensive treatment and prolonged hospitalisation and eventually died, it could be that his dependants, instead of receiving the maximum compensation payment for a deceased worker of £3,386, would receive £957, plus £90 for each child; provided, of course, that normal weekly compensation payments had been paid. So a worker could lose his life and his family be left destitute because of the limits placed on hospital and medical expenses.

I consider, therefore, I have advanced sufficient reason for the Government to introduce amending legislation with that object in mind; namely, the removal of the limits imposed on hospital and medical expenses.

Paragraph (c) of the motion reads—

> (c) Substantial increases in compensation payments including those contained in the schedules.

If one cares to study the schedules in the existing Workers' Compensation Act one could have a great deal of enjoyment in

making a comparison between the compensation payable for one injury and the compensation payable for another. I am not sure whether it is a whimsical smile on Dr. Hislop's face, but I feel sure he has noticed the many anomalies that appear in these schedules. Also, the amounts are not in line with the amounts provided in the legislation in other States.

I referred previously to a blacksmith in New South Wales who, if my memory serves me correctly, suffered partial deafness. In Western Australia if a worker successfully claimed compensation for loss of hearing as a result of an injury at work—not as a result of, say, boilermakers' deafness which extends over a long period—he would be awarded £480. In New South Wales, however, a worker who is incapacitated through an industrial disease can be awarded £2,400.

In this State, for the total loss of both eyes, a worker can receive £2,400. For the loss of one eye he could be awarded £960. But if, during the course of his working life, he loses the sight of his remaining eye, he could then receive £2,400. This means that this worker could be awarded a total sum—in the case of a single man—in excess of the amount payable to the dependants of a deceased worker. I could go on drawing comparisons between the amounts set out in these schedules, the amounts which people expect in compensation, and the amounts which they actually receive as a result of injuries. Therefore, it is considered that the Act should be completely overhauled with a view to bringing these amounts into line not only with present-day costs, but also with present-day wages.

The Hon. J. G. Hislop: If a worker lost the sight of his remaining eye, you would find that the amount of £960 originally awarded to him would be deducted from the sum of £2,400 granted to him for the loss of both eyes.

The Hon. R. THOMPSON: That could be so. Possibly, one could place two different interpretations on any Act. I did not say that the worker would be awarded the amount immediately; but during his working life he would have lost the sight in one eye at some stage. He may have lost it whilst he was working in New South Wales, before coming to this State to work.

The Hon. J. G. Hislop: A totally blind man is also entitled to a blind pension.

The Hon. R. THOMPSON: That is true, but the payment of the pension is the responsibility of the Commonwealth, whereas, in fact, the payment of compensation should be the responsibility of the employer. The honourable member knows only too well that in other States many people are injured and, on recovery, are permitted to engage only in light duties when they return to their place of employment. That is virtually a myth, because very seldom can light duties be found. We receive hundreds of complaints; and I am not exaggerating.

The PRESIDENT (The Hon. L. C. Diver): Order! One hour having expired since the commencement of this sitting, it is necessary for an extension of time to be moved.

[*Resolved: That motions be continued*]

The Hon. R. THOMPSON: We have received hundreds of complaints about people recommended for light duties not being provided with them. I am constantly in touch with the Commonwealth employment agency requesting light jobs for workers who have been recommended for light duties; but neither the Government agency nor private employment agencies, nor anyone else, can find such jobs in quantity to place these people in useful employment. As a result they have to fall back on the Government. In some States it is the responsibility of the employer to place such a worker on light duties, and that is referred to in one part of the Act.

I now turn to the question of the lump sum payments which are provided in the legislation of other States, to make a comparison with what is paid in Western Australia. In New South Wales, the amount is unlimited for total liability, both in respect of total and partial incapacity. In that State insurance is compulsory with a licensed insurer, or through self-insurance within the authority of the commission. Insurance must also cover liability, independent of the Act, to an amount of £20,000. So the sky is the limit in New South Wales.

In Victoria the insurance coverage is compulsory, as it is in Western Australia, for weekly payments of compensation totalling £2,800; but in the case of total and permanent, or major, incapacity, the board has power to order a continuation of weekly payments beyond the total sum.

In Queensland the total amount of compensation paid weekly or otherwise, is £3,600. In South Australia it is £3,500, in addition to weekly payments already made. However, in Western Australia the weekly payments already made are deductible from the total gross amount that could be made available. In Western Australia the sum is £2,867, under the first schedule and section 11, relating to partial incapacity; and £3,103, under section 10A, relating to total incapacity; and this sum is adjustable according to fluctuations in the basic wage.

In Tasmania the sum is £4,175 for weekly payments under the first schedule. In the Commonwealth it is £3,000 for partial incapacity, but unlimited for permanent or total incapacity. Naturally the others follow: the Northern Territory legislation, the Papua and New Guinea legislation, and the coverage for seamen.

In that regard Western Australia is the worst off, compared with the rest of the Commonwealth. Our compensation payments, for partial or total incapacity or death, do not bear the correct relationship to the earning capacity of the workers, as they did some years ago.

When the compensable rate for death was in the vicinity of £600, the wages in this State were £4 a week; that represented 3 years' earning capacity of the worker, and the £600 would be paid to the widow of the worker concerned. Now the maximum payable is £3,300, and we are told that the average wage paid in Western Australia is £22 a week. There would need to be a steep increase of at least £1,000 to bring the relationship back to the time when the wages were £4 a week. The Act is now completely out of step with the compensation payments in relation to wages. Compensation payments have drifted backwards, while wages have increased.

The Hon. J. G. Hislop: Why not talk about pensions?

The Hon. R. THOMPSON: I have heard the honourable member speak on that matter, and I shall deal with it later on. The honourable member will recall that I supported his ideas on the payment of pensions, but when one is on the Opposition benches one cannot introduce pension schemes, because they would involve a cost to the Crown.

The Hon. G. C. MacKinnon: This is a motion.

The Hon. R. THOMPSON: Since I have been a member of this Chamber I have always been on the Opposition benches. I have heard Dr. Hislop speak on the question of pensions, and I applauded his speech on one occasion. It is up to the Government to introduce legislation to cover this, because the Opposition cannot do so. I trust that when we become the Government next year we can introduce a Bill, with a Message from the Governor, to provide for a pension scheme.

The Hon. G. Bennetts: We would require a majority in both Houses.

The Hon. R. THOMPSON: We would have Dr. Hislop on our side. Dealing with industrial diseases, we find the inquiries come mainly from the goldfields. In other occupations, we will find in the future that workers will become subject to diseases possibly unknown at this particular time. With the manufacture of antibiotics, chemical mixtures, and similar substances, and possibly of atomic substances—which are mentioned in a Bill now appearing on the notice paper—we will find workers being subject to diseases which are not covered sufficiently by the Act at the present time.

In the schedules to the Act appear the fancy names of many diseases and chemicals concerning which workers can make claims. There are occupational diseases, such as scrotal epithelioma, or more commonly known as chimney sweeps' disease. The schedules should be brought up to date in the light of the medical and scientific knowledge now available concerning diseases that can be contracted. They are of a serious character, and can possibly affect the worker for the rest of his life.

I now turn to paragraph (e) of the motion. It asks for more reasonable treatment of partially incapacitated workers to be provided in certain circumstances. That brings me to the responsibility of the employer in this respect. It should be ensured that the earning capacity of a worker who is injured in his employment is not reduced.

In New South Wales the payment is to bear proper relationship to loss of earning capacity, and a worker who is unable to obtain work may be treated as totally incapacitated. In Western Australia 66⅔ per cent. of the total payment is the maximum which a worker can receive under the Act. Further, the New South Wales Act provides that, subject to the conditions imposed by the commission, the onus is on the employer to provide suitable employment for partially incapacitated workers.

I repeat that in Western Australia, the payments are to bear proper relationship to loss of earning capacity, but they are not to exceed 66⅔ per cent. of the difference between the pre-accident and post-accident earnings. Among the other matters which I have mentioned as being the worst of any in the Commonwealth, the total payment of 66⅔ per cent. payable in Western Australia must be included. I do not think I need to prove my point by referring to the provisions which apply in the other States.

Over the years, members of this Chamber have, in the main, been responsible for not passing amending legislation which was introduced by Labor Governments. Such legislation has been rejected in this Chamber, and as a result we have the worst Workers' Compensation Act in the whole of Australia. I do not think it is fair to the citizens of this State who earn their living by working for employers, or who are engaged in occupations where they have to take out insurance coverage, to be treated as second-class citizens. That is what is happening, and no-one can deny it. The workers in Western Australia are being treated as second-class citizens.

Anyone who disagrees with my point of view can go through the official booklet I have referred to, clause by clause, and he will find that what I have said is correct. I hope and trust that when the Government does bring down amending legislation to the Workers' Compensation Act, it will do so with a sense of fairness and justice to the workers of Western Australia.

Debate adjourned, on motion by The Hon. A. F. Griffith (Minister for Mines).

BILLS (2): RECEIPT AND FIRST READING

1. Agriculture Protection Board Act Amendment Bill.

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

2. Health Act Amendment Bill.

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

BILLS (7): THIRD READING

1. Vermin Act Amendment Bill.

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

2. University of Western Australia Act Amendment Bill.

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

3. Fire Brigades Act Amendment Bill.

4. Forests Act Amendment Bill.

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

5. Radioactive Substances Act Amendment Bill.

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

6. Brands Act Amendment Bill.

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

7. Public Trustee Act Amendment Bill.

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

WILLS (FORMAL VALIDITY) BILL

Third Reading

THE HON. A. F. GRIFFITH (Suburban —Minister for Justice) [5.56 p.m.]: I move—

That the Bill be now read a third time.

I would like to cover a point raised by Mr. Watson. When speaking on the second reading he said he was of the opinion that we ought to have a Wills Act of our own.

I have gone into this proposition and whilst I do not think there is time to do so this session, I would like to think we could bring down in the next parliamentary session a redraft of the Wills Act, and that would also include the other Acts which could be formed into one measure. I refer to the Wills Act of 1837, the Wills (Formal Validity) Act—that is this one if it passes —the Wills (Soldiers, Sailors and Airmen) Act of 1941, and any other Act amending the Wills Act of 1837. If that were done, all the laws directly concerning wills would be in one piece of legislation.

During the parliamentary recess following the conclusion of this session, the draftsman can get on with the job of carefully preparing this legislation and it can be presented to the next session of Parliament.

Question put and passed.

Bill read a third time and transmitted to the Assembly.

CEMETERIES ACT AMENDMENT BILL

Second Reading

THE HON. L. A. LOGAN (Midland—Minister for Local Government) [5.57 p.m.]: I move—

That the Bill be now read a second time.

The Bill is a very short one and comprises only three clauses. The second clause in the Bill is designed to clear away any doubts as to the power of the Governor to appoint the council of a municipality as the trustee of a public cemetery. Appointments have been made for many years, but there is an element of doubt, and therefore it was thought proper to resolve this with certainty.

The clause has also been redrafted entirely to improve its clarity; but there is no other change in the provision apart from providing for the appointment of a council to act as trustee.

The second amendment in the Bill is to ensure that in cases where nobody appears to be responsible for the burial of a dead body, the council of the municipal district may arrange for the burial; and if it can subsequently locate the person who would have been responsible, it may recover all its expenses in a court of competent jurisdiction. The reason for this amendment is that there have been a few cases in which someone has died without any person known to be responsible, and doubt has arisen as to who, if anyone, should carry out the burial.

This new provision will enable a council to do so, but will protect the council by enabling it to recover in cases where the estate makes this possible or the persons who should have attended to the burial should subsequently be located. I commend the Bill for consideration.

Debate adjourned, on motion by The Hon. F. J. S. Wise (Leader of the Opposition).

MINING ACT AMENDMENT BILL (No. 2)

Second Reading

Debate resumed, from the 10th September, on the following motion by The Hon. A. F. Griffith (Minister for Mines):—

That the Bill be now read a second time.

THE HON. D. P. DELLAR (North-East) [6 p.m.]: When I took the adjournment on this Bill, which contains two small amendments, I did so without any thought of doubting the Minister's actions. On checking the measure with the Act I can see some purpose in the amendments.

As we all know, by changing the commons to public utility land some years ago, pastoralists were given the opportunity of grazing their stock on the commons. When the commons were first formed many years ago, large acreages were granted. To my way of thinking, which I think is right, the reason was that in those days there were large teams of horses and donkeys and camels being worked in the goldfields area. The commons had to have some protection and that is why they were such large areas.

However, when a lot of the common land was termed public utility land, no provision was made in the Land Act or the Mining Act to allow mining on that particular land. I can recall that away back in about 1909 a reserve was taken over by the ladies' rifle club of Woolgar. That particular land is still public utility land and no prospecting or mining can be done there. Prospectors and mining companies have to go to a lot of trouble and expense—and valuable time is lost—to have that land made available for prospecting.

The same thing applies to grazing land. Pastoralists have the right to graze their stock on reserves; and in recent times a lot of public utility land has been fenced and roads have been put across and around them. Some pastoralists seem to have come to the conclusion that they have a right to the reserves. When I say that, I do not mean all pastoralists; a lot of them have been very reasonable and co-operative with the mining companies.

The Hon. G. Bennetts: I think a prospector has the right to go on to any of the reserves.

The Hon. D. P. DELLAR: No; not without permission. In the last few years some pastoralists have sold to Eastern States people who have put managers on the properties. A few of those managers have not been as co-operative as the pastoralists of a few years ago. I am not condemning them, but that is one of the problems which has arisen over the last few years.

This Bill will overcome a few of the difficulties, and public utility land which is made over to Crown land will be made available for mining. That is a step in the right direction.

Referring to the second clause, I have read the Bill which was introduced in 1957 by Mr. Lionel Kelly—the then Minister for Mines—and it appears that there is an error in the wording. At present the Act reads that companies can take up about 300 acres, and every year the area can be reviewed. I think that the word, "renewed" is the correct word and I see no reason why it should not be substituted.

Whilst speaking to this Bill, I would like to draw the Minister's attention to a few matters. I am not criticising in any way but am offering advice from the mining point of view. Quite a lot of land is taken up by mining companies—and also small syndicates and prospectors—and these lots can consist of 12 acres or 24 acres, and so on. Quite a large area of land can be held and it becomes nearly impossible for a new prospector to go out to find something. Quite a lot of land is tied up and has not been worked for years. What occurs is necessary in some cases, such as where companies have spent many millions of pounds in trying to work small shows. They are entitled to a reserve. However, a lot of land is held for many years and does not get worked, and in those cases the companies should not be entitled to extensions.

The Hon. A. F. Griffith: This does not occur with temporary reserves.

The Hon. D. P. DELLAR: I am only offering a suggestion. This is an anomaly which does exist. A few years ago there existed what we knew as "jumpers," but not these days.

Those are a few suggestions I wished to offer whilst speaking to this Bill, and I would appreciate the Minister giving consideration to them. I support the Bill.

Sitting suspended from 6.9 to 7.30 p.m.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

MILK ACT AMENDMENT BILL

Second Reading

Debate resumed, from the 10th September, on the following motion by The Hon. L. A. Logan (Minister for Local Government):—

That the Bill be now read a second time.

THE HON. R. H. C. STUBBS (South-East) [7.33 p.m.]: When the Minister introduced the Bill he concluded by saying—

> It is commended to members and should be a worth-while and quite necessary contribution to the safeguard of our public health.

I quite agree with that. The public who consume milk certainly need protection, and there have been several cases of brucellosis in the State.

On examining the reports of the Commissioner of Public Health I find that in 1959 there were eight reported cases of brucellosis; in 1960, seven cases; in 1961, five cases; in 1962, six cases; and in 1963, seven cases. As I see it, the repeal of section 27 and the re-enactment of a new section which provides that the board may by notice published in the *Government Gazette* prescribe that before any milk or cream is delivered for sale by any person certain things shall happen, will do much to help prevent the spread of disease through the consumption of milk. In the definitions in the principal Act we find the following:—

> "disease" in relation to dairy cattle means tuberculosis, or actinomycosis, or any other disease of cattle which the Governor by proclamation declares to be a disease for the purposes of this Act . . .

In my opinion that leaves the way open to name any disease. Then it is a matter of proclaiming it, and on a prescribed date the provision relating to the disease becomes law. Animal diseases transmitted to man are called zoonoses. There are over 40 of these diseases and zoonotic pathogens are able to use the cow, more or less satisfactorily, as a host.

Among the more serious diseases are brucellosis or undulant fever. Undulant fever, of course, can be transmitted by drinking cows' milk. There are two types of brucella: brucella abortus from the cow, and another, which is known as brucella melitensis, or Malta fever. This, of course, can be contracted by drinking goats' milk. As a matter of fact, I think it was in 1877 when the British garrison in Malta were all seriously ill with undulant fever. At the time the medical authorities were nonplussed as to what the disease was, and when they insisted that the goats' milk be boiled the disease was eliminated.

We do not have that sort of thing here because very little goats' milk is consumed, but a number of animal-borne diseases can be transmitted from the animal to man by the consumption of infected milk. Pasteurisation, of course, will destroy these pathogens and bacteria and make the milk fit for human consumption.

As a matter of interest, although probably strictly it does not come within the confines of the Bill, the brucella organism is found in pigs and goats, and there is also a type that affects rams and causes them to become sterile. It would be a shocking thing, and would cause terrific losses to the wool industry in Australia, if the disease became prevalent in our rams.

The pasteurisation of milk is certainly the safe method of dealing with these diseases which are transmitted from animals to man, and also those diseases which can be passed on from one person to another. It is interesting to note that the tuberculosis germ can be destroyed at 140 degrees Fahrenheit after 20 minutes, the brucella abortus after 15 minutes at 140 degrees, typhoid after 5 minutes at 140 degrees, diptheria after 3 miuntes at 140 degrees, dysentery after 10 minutes at 140 degrees, and streptococci after 5 minutes at 130 degrees. This makes the milk safe for drinking and prevents the spread of such other diseases as anthrax and foot-and-mouth disease. Pasteurisation of milk deals effectively with those diseases.

I read an interesting article recently about what I would refer to as an occupational disease, and this article would be of interest to those who have anything to do with the dairying industry. The figures I shall quote were compiled by the University of Melbourne and they are reported in *The Rampart* which says—

> During the past five years 204 probable cases have been tested in the Public Health Laboratory, University of Melbourne, and their occupations are shown in the Table. They are divided into (A) those likely to handle cattle on their job, and (B) the others; it is, of course, quite possible that some of those in the second group may have done so.

As regards (A), there was one milkman, one stock agent, seven veterinarians, 11 meat workers, 40 farmers (unspecified), and 60 dairy farmers, and the percentage in their case was 49 per cent. In regard to section (B), the figures were 14 housewives, 17 school children, 39 in miscellaneous occupations, and 14 unspecified. Forty-one per cent. in that category had brucellosis; so members can see that it is an occupational disease for anyone handling raw milk, and there is a grave risk for those working on dairy farms. The report goes on—

> When one considers the proportion of farmers, meat workers, and veterinarians in the whole community it seems clear that Brucellosis is very largely an occupational disease affecting those who handle cattle.

I heartily agree with the Bill and I give it my blessing.

THE HON. J. G. HISLOP (Metropolitan) [7.41 p.m.]: Naturally this Bill is of considerable interest to me, and I agree with Mr. Stubbs that brucellosis is a

disease that no-one wishes to contract. It is a disease which can be treated but, if it is not treated, it will go on recurring over a long period of time. Mr. Stubbs outlined the various diseases that can be contracted through milk which is not pasteurised, and the types of persons who are more likely to contract diseases associated with milk. However, there are a number of matters not covered by the Bill and these are the things which interest me.

Firstly, the Bill says that the board may by notice published in the *Government Gazette* prescribe that before any milk or cream is delivered for sale by any person to householders in any district, etc., certain conditions shall apply; and they are set out in the Bill. But what happens in milk bars? I have seen open cans behind the counters of milk bars. Has that milk been sterilised by pasteurisation? I have seen these cans behind the counter, and I have seen the milk tipped from one can into another and the top hung on the neck of the can. Because of that the milk in the can could not possibly stay sterilised for any length of time.

The Hon. L. A. Logan: It then becomes a health matter and not a matter for the Milk Board.

The Hon. J. G. HISLOP: This will be the third time I have asked whether small bottles of pasteurised milk will be placed on the overland train. I have not been on the Kalgoorlie express for some time, but on two previous occasions I asked if the department could get rid of the cans which stand at the entrance to the dining room on the train from Kalgoorlie. Everybody passes by those cans of milk, and as the waitresses want milk they dip jugs into the cans and then put the jugs full of milk on the tables. I do not know whether that situation still exists, but nothing was done about it on the two previous occasions when I questioned the practice. Therefore what is the use of dealing with householders if we are going to allow this large outer area to carry on under the present system?

I do not know whether any cases of undulant fever have been traced back to milk bars in recent times, but some years ago several cases of undulant fever were traced to one particular milk bar, because all the cases occurred within a range of the one bar in the one suburb. I think the Bill wants tightening up quite a lot. I would say that no milk should be given to anyone for drinking purposes, at least in the metropolitan area, until it has been pasteurised, bottled, and sealed.

The Hon. L. A. Logan: It is all pasteurised.

The Hon. J. G. HISLOP: It does not stay pasteurised for long in a can from which people are dipping jugs of milk. I realise, of course, that there is no pasteurisation of milk in Albany, and that people there get their milk in cans. I do not know whether there have been any cases of undulant fever in Albany, but it would be interesting to find out. However, under this Bill I hope it will be made a necessity that all milk sold to householders shall be pasteurised. But here comes the cry already from the people of Albany. They realise that with the establishment of the new milk refinery plant they will be faced with pasteurised milk, which will not have anything like the quality of cream that is obtained through cans.

The Hon. F. R. H. Lavery: That's for sure.

The Hon. J. G. HISLOP: That is perfectly true. What happens after that I do not know, because we purchase cream in bottles and pay well for the amount with which we are served. It is a very thin cream. It has not much more than 12 per cent. butterfat, which is about half as much as one would get in the ordinary way from a Jersey cow. There is something that needs readjustment in all this.

While we are on this subject I would point out that most European cities provide a coffee cream; and there is also a heavier fat content cream which can be used for other purposes. I want to know whether this Bill will provide for places like milk bars, trains, buses, and all other forms of transport to be as carefully controlled in their supply of milk as will be the householders; because if that is not to be the case I will alter the first few lines of the Bill—where it refers to householders—to see that it is made to apply to all vendors of milk.

The Hon. H. R. Robinson: You would not suggest that it should apply to all milk vendors.

The Hon. J. G. HISLOP: How else can it be done?

The Hon. H. R. Robinson: They normally supply in bulk.

The Hon. J. G. HISLOP: Yes; but then there is the question of the cans standing around on dusty floors.

The Hon. H. R. Robinson: They do not necessarily use cans.

The Hon. J. G. HISLOP: There is no great difficulty in using small bottles and pouring the contents of the bottles into a drinking cannister, which is then beaten up by a machine.

The Hon. R. H. C. Stubbs: I think they have small bottles.

The Hon. J. G. HISLOP: There are one-third pint bottles. I want to know whether these are supplied to everybody who comes into a milk bar. In line 14 of the Bill the words "shall be bottled and sealed or placed in a carton or other container" are used. Does this mean that the Milk Board has given the right to milk vendors to sell their milk in cartons?

The Hon. L. A. Logan: They have always had the right.

The Hon. J. G. HISLOP: Or is this provision to cover the milk that goes to the outback areas? Or is the war still on as to whether the milk depots can sell milk in cartons? I know there is no war as to whether milk can or cannot be sold in cartons—the war is actually over the price to be charged. What is the decision of the Milk Board in this matter? As members know, broken milk bottles which lie around the streets are a very serious hazard and cause considerable damage to children's feet. We see bottles stacked in corners, some are left there for days and eventually become of no use because they have been out in the sun.

What is the objection to the use of the carton? If I wish to buy a carton, why cannot I get one if I am prepared to pay the extra cost. We must realise that bottles come back six or seven times, and the cost of the bottle is diminishing all the time. That is not the case with the carton. It will however save a lot of noise in the early morning.

The Hon. H. R. Robinson: The public resent cartons.

The Hon. J. G. HISLOP: I do not say that the public should be supplied with cartons willy-nilly, but if one is prepared to pay the extra cost the producer should be permitted to supply the milk in cartons. There would be many people who would prefer their milk delivered in cartons rather than bottles in the early morning. Let us permit the producers to sell milk in cartons and charge the increased price.

The Hon. A. F. Griffith: Would the use of cartons lessen the use of bottles?

The Hon. J. G. HISLOP: Yes.

The Hon. A. F. Griffith: So the public would have to pay more.

The Hon. J. G. HISLOP: About 1d. more.

The Hon. A. F. Griffith: It would be more than that.

The Hon. R. Thompson: A lot of the country areas are trying to get back to bottled milk:

The Hon. J. G. HISLOP: It is only a question of putting the milk into cartons that are acceptable. Triangular cartons are not acceptable but there are those with the closed neck which are acceptable—they are accepted in many parts of Australia. If the producers are permitted to sell milk in cartons, they will soon find out what is acceptable to the public in the way of cartons. We say in the Bill that these people can supply milk in cartons, but on the other hand the Milk Board prevents them from doing so. It seems to be too silly. Surely some agreement can be reached with the Milk Board in this matter.

My contention is that if there is a pasteurising plant at all close to the supply of milk, then all the milk should be pasteurised and produced in sealed containers. If we are going to make this applicable to householders, then we should also make certain that every milk bar sells pasteurised milk over the counter. If we can make certain that this is done and that every district has its pasteurised milk, the Bill will meet with my approval. I would like to get some answers to the questions I have raised.

THE HON. F. R. H. LAVERY (West) [7.53 p.m.]: I was very interested in Dr. Hislop's comments, but I am not sure whether he has not missed the point about pasteurising. As the Minister said, all milk is pasteurised. What concerns me is the length of time the cans of milk are left at the back of the milk bars. I wonder whether the milk does not become contaminated as a result.

Twelve months ago members of the Canning Shire and parliamentary representatives were taken around the new Masters Dairy plant in the Welshpool-Canning-Bentley area; and if some members have not already done so; I suggest that they go and inspect this plant even before this Bill becomes law. They will be surprised to see what is happening at that plant. Masses of machinery have been installed at a great cost to ensure that bottles are kept clean, and also to ensure that this will be the main system of delivery by the company. I am sure the conditions at this plant would leave Dr. Hislop and the Chairman of the Milk Board (Mr. Wright) in no doubt whatever as to the standard of hygiene that is maintained at this milk plant.

The Hon. J. G. Hislop: I don't doubt that, but what happens afterwards?

The Hon. F. R. H. LAVERY: I would like at this point to pay a tribute to Mr. Wright. He is a most amiable person and his office is always open to receive anybody who cares to go in and discuss things with him. I would now like to refer to the deliveries of milk to school children. There are over 40 schools in my district and the children at these schools receive their milk in one-third pint bottles.

The milk leaves the depot in perfect condition, but it is interesting to see what happens when the milk is handed to the children. I witnessed one such event at a school I visited. I watched the children open their bottles of milk. When the bottles were taken out of the crate and handed to the children, at least eight out of 10 children put their finger through the cap of the bottle and then put the bottle straight to their mouths. Other children would take the bottles to the tap and wash the mouth of the bottle, probably because their mothers had instructed them to do so.

I wonder whether we have reached a high standard of hygiene in the delivery of milk to our children. This will no doubt

be read by the Chairman of the Milk Board, but I think that if we have any doubts in this matter we are entitled to draw attention to them. I am not concerned about the milk when it leaves the depot, but I do have my doubts about its hygiene qualities when it gets to the children. We all know that when a mother brings the milk bottles in in the morning, she is possibly aware that dogs and cats have been licking around the necks of the bottles at night and she washes the bottles. But children are not always taught to do this.

I notice the Bill uses the expression milk or cream, but it does not say cows' milk or cream. There is another type of milk suitable for human consumption. I refer, of course, to goats' milk which is very necessary for babies with certain complaints. One of my sons was on this type of milk for two years because of a liver complaint. The producers of this milk find they cannot supply enough to meet the demand. I was wondering whether the Milk Board had any ideas to ensure a sufficient supply of this milk to the parents of children who may require it.

I do not know whether the milk produced by the goats in the near city area should be pasteurised, because I am given to understand that it must be left in its natural state to be any good. It must be left as a raw milk. But because of the demand for this type of milk I think it would be a good thing if the Milk Board had a look at the matter to see if it could not do something to ensure a regular and sufficient supply to consumers in the metropolitan area. There are a number of people who are supplying this type of milk and importing Saanan goats at great cost for the purpose. This section of the milk industry has reached a fairly high proportion. I support the Bill, and I am sure that the queries I have raised can be answered by the Milk Board.

THE HON. L. A. LOGAN (Midland—Minister for Local Government) [8.1 p.m.]: I think most members have got away from the intention of the amendment.

The Hon. G. C. MacKinnon: You can say that again!

The Hon. L. A. LOGAN: The intention of the amendment is to overcome an anomaly so that milk from a dairyman whose herd has been T.B.-tested can still be sold unpasteurised. The amendment is intended to close the gap in the Act to make sure that if pasteurisation is available in any prescribed area, the milk has to be pasteurised before it is passed on for human consumption.

In order to overcome the problems raised by Dr. Hislop it is necessary to turn to the Health Act. If bulk milk is pasteurised it is passed on to the shopkeeper, and it is then out of the hands of the Milk Board and becomes the responsibility of the Public Health Department to make sure that the milk does not become further contaminated. I do not think that is something which can be dealt with under the Milk Act.

The Hon. F. R. H. Lavery: You can draw attention to it, though.

The Hon. L. A. LOGAN: I do not know whether Dr. Hislop thinks that we should cut out the delivery of milk in bulk, but I do not think it would work. I think there would be a hue and cry about it. The present Act does not make any mention of cartons.

The Hon. J. G. Hislop: It is here for the first time.

The Hon. L. A. LOGAN:: This is the first time the word has been used, and there has been no authority to sell milk in cartons. I think the Milk Board has been concerned about the fact that the sale of milk in cartons would increase the price; and I think there is some justification for the board's attitude.

The matters raised by Mr. Lavery also concern health. Even if we were to lay down that every bottle of milk before it was consumed by school children or in a household had to be washed, it would make no difference, because 99 per cent. of the people would not co-operate. It is something for the individual to decide for himself. I do not worry. Every morning I take the cap off and use the milk.

The Hon. F. R. H. Lavery: You do not know what cats are running around your verandah.

The Hon. L. A. LOGAN: To live this life, I believe one needs a few germs from somewhere. If we took away all germs we would probably not exist. The original intention of the amendment was to make sure that milk produced in a T.B.-tested herd, which could previously be sold without being pasteurised, must now be pasteurised if the area is a prescribed one and the milk can be treated. We know that in Albany and Geraldton—I do not know about Bunbury—there are still dairy herds, and we want them to continue. We want a little bit of the local stuff if we can get it, and we want to keep these people producing milk in those areas. We hope the areas will get big enough to put in pasteurisation plants so that the milk they produce can be pasteurised; but if the areas are whittled down, as they have been in the past, they will never get to that stage.

I recalled the reasons for this amendment because I thought members were getting away from its intention.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

CRIMINAL CODE AMENDMENT BILL

Recommittal

Bill recommitted, on motion by The Hon. A. F. Griffith (Minister for Justice), for the further consideration of clause 8.

In Committee, etc.

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

Clause 8: Section 390B added—

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

> Page 6, lines 14 to 29—Delete paragraph (b) and substitute the following:—
>
> (b) the offender at or immediately before or immediately after the time he so takes or exercises such control of the aircraft—
>
> (i) uses or threatens to use actual violence to any person or persons in order to so take or exercise control of the aircraft or to prevent or overcome resistance to such control being taken or exercised; or
>
> (ii) is armed with any dangerous or offensive weapon or instrument; or
>
> (iii) is in company with one or more other person or persons; or
>
> if the offender so takes or exercises such control by any fraudulent representation, trick or device, he is liable to imprisonment with hard labour for life.

By way of simple explanation, members will recall that when we dealt with this clause previously in Committee it was thought it could be better worded. After the House rose last week I took a suggestion from Dr. Hislop to the Parliamentary Draftsman and conferred with him. He has now redrafted this clause in the form in which it appears on the notice paper, and I think it will fill the bill.

The Hon. W. F. WILLESEE: The recasting is not in conformity with anything I wanted, but I do not propose to oppose the clause any further. It certainly has been redrafted in some degree and perhaps it reads better than before, but the material is exactly the same.

Amendment put and passed.

Clause, as amended, put and passed.

Bill again reported, with an amendment.

LOCAL GOVERNMENT ACT AMENDMENT BILL

Second Reading

THE HON. R. F. HUTCHISON (Suburban) [8.12 p.m.]: I move—

> That the Bill be now read a second time.

This Bill is introduced for the purpose of extending the principle of adult franchise one step further—to the affairs of local government in the State—and deals with principles already approved for the election of members for both Houses of Parliament of the State. In addition, in this Bill certain rights of the property owner are protected in such cases where property owners are not residents of the area in which the property is owned.

After many years of earnest endeavour on my part to have the principle of adult franchise apply to parliamentary elections, it was a great step forward to have adult franchise approved last year for both Houses of the Western Australian Parliament. Parliament—and I mean both Houses of Parliament—approved unanimously of the change.

What is now proposed in this Bill is, as I have already stated, that the principle should be extended to local government elections. Apart from the precedent now with us, of adult franchise for Parliament, there are also other precedents in the local government Acts of other important and progressive States of Australia. The State of Tasmania provides for owners and occupiers of any land or property to vote at municipal council elections, plus the spouse of any owner or occupier resident in the district. All returned servicemen or women not otherwise qualified may also vote—something I have always advocated. Tasmania unfortunately also provides for plural voting—up to four votes—by owners.

In the case of Queensland, the Local Government Act of 1936 provides—

> At any election under or for the purpose of the Local Government Act each elector shall have one vote only.
>
> For the purpose of every triennial election, a Voters' Roll is compiled from the names of all electors enrolled on the Electoral Rolls of the Electoral Districts or parts of the district comprised in the area or division.

In my desire to have the highly desirable principle of adult franchise further extended in this State, I have endeavoured to extend a reasonable privilege or right to owners of ratable property. Although my Bill does away with plural voting as such, in that it will, if passed, not permit any individual owner of property to have two or four or more votes for such property. It will give him a voice in the affairs of

the local government wherein his property is situated, but with one vote only. The provision which has operated in the past of giving dozens of votes to one person or company is to be done away with. Prior to the 1960 Act one person could have nearly 200 votes under certain circumstances.

May I quote from an article, "Qualifications for Municipal Polls" written by Jack Clydesdale, and published recently? Mr. Clydesdale said—

> One person could have as many as 44 votes in the Perth City Council election on May 23. He could have eight votes in the Lord Mayoral election and a further four votes for council candidates in each of the council's nine wards.
>
> This would occur where a person who was entitled to the maximum number of votes for the mayoral and council election (22 votes) was nominated by a company to cast its maximum of 22 as well.
>
> The number of votes a person or company is entitled to in any local authority election is determined by the amount and value of property owned or occupied.
>
> Number Limited
>
> The Local Government Act of 1960 limited the number of votes one person could cast in an election. Under the old Act, a person was enrolled to cast 192 votes at one election. In another case, one North-West elector had 36 votes out of a total district vote of 70.
>
> In all mayoral elections, a person can have up to four votes, according to the value of his property. The scale ranges from one vote for property up to £75 annual valuation, to four votes for property of more than £300 annual valuation. Under unimproved capital valuation, the figures are one vote up to £400 and four for more than £1,600.
>
> A company which owns property is entitled to the same maximum of four votes and can nominate someone to cast them. One person can exercise votes for no more than two companies. In elections for councillors, a person or company can have up to two votes in a ward. They can have votes in as many wards as they have properties.
>
> A shopkeeper occupying two or more properties in one ward has only one set of votes. His various property values are grouped together to determine the number of his votes. The Act allows the owner and occupier of the same property to vote.

My Bill deals with adult suffrage for local government. It is a legislative measure aimed to give a vote to all persons who are registered on the State Assembly rolls under section 17 of the Electoral Act. Section 45 of the principal Act is repealed and re-enacted with amendments.

Adult franchise is in accordance with the democratic principle that no person of adult years should be subject to taxation unless he has the right of representation. So strongly is the principle imbued in democratic-minded people, that it has been fought for over the decades in many countries.

One cannot credit that in a young, fast-developing country like Australia, we have on our Statute book laws in which this very fundamental of democracy is denied. Even as far back as 1773, when America was developing, history tells us of a revolt known as "The Boston Tea Party"—a revolt which was triggered off by the stand taken for the very principle in this Bill.

This Bill gives a vote also to an owner of ratable land in a district. He gets one vote only if he elects to exercise his right under this Bill. Adult franchise is just and right, as occupiers of land, whether in their own right or as tenants, make a contribution towards rates levied by local authorities. They pay motor vehicle fees and many other taxes, and add to the funds of local authorities in some way or another.

All residents of a municipal district, and all electors of that district, must comply with the by-laws of the council; so every adult resident who is on the Assembly electoral roll and who votes in elections for the government should have the right to elect the persons who make those by-laws.

Human dignity should be placed above property; and adult franchise for local government ensures that a larger proportion of the people will play an active part in the governing of districts. To me this is a very desirable thing.

Adult franchise has been achieved for the Legislative Council, and it is only right and just that adult franchise should become an accomplished fact for local government, which I have often heard described as the "third arm" of government. I have heard it described as such in this House. So far as I am concerned, it is politics on the kitchen doorstep. I have made that statement a few times here. It touches the lives of women, especially—right at the humble rubbish bin. If the rubbish bin is out of order, the housewife is responsible; and it is just and right that housewives should have a voice in the electing of those whose actions affect their lives so closely. Likewise many men and women who were ready to give even their lives in war service are now denied a vote for local government. In Tasmania they have that right.

The time is overdue for all these undemocratic strictures to be removed, and when right should prevail for government of all the people for all the people by all the people.

The election of a mayor or president: I feel that this Bill will have an appeal to country residents as well as to city dwellers. There is much more in local government administration than rating of property and affecting property owners only. All residents are subjected to the demands and policies of a local shire. The decisions of a body of councillors affect the lives of all citizens in the area. Demands of some kind are made on every resident in some way or another.

Therefore, I have endeavoured to provide for adult citizens to have their rightful say in local government affairs and, at the same time, while not denying the property owner his rights, to abolish plural voting. Provision is made for the persons living in a municipality which is subdivided into wards, or where they have property in two wards. There will be found provision for joint owners and for limiting the voting power of many owners of a single piece of land.

There is also provided the right to vote —by one voter only—in the interest of a body corporate. There is also a clause dealing with the alteration of the existing subdivision B of division 4 of part IV of the Act. This provides for the new system to apply to the filling of vacancies in the office of mayor or councillors.

With those remarks, I commend the Bill to the House.

Debate adjourned, on motion by The Hon. L. A. Logan (Minister for Local Government).

ALSATIAN DOG ACT AMENDMENT BILL

In Committee

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

Clauses 1 and 2 put and passed.

Clause 3: Section 8 amended—

The Hon. J. DOLAN: I move an amendment—

> Page 2, line 8—Insert after the word "amended" the paragraph designation "(a)".

My amendment to the notice paper appears in two parts, the first part being complementary to the second. No criticism of the Minister is intended or implied in this amendment. Its purpose is to cover a rare and extraordinary circumstance which an owner of one of these dogs might meet. He might go on long-service leave or some other form of leave such as sick leave or study leave, and it is necessary for us to provide for those circumstances. When the Minister introduced the amending Bill he made provision for an owner to leave his dog for six weeks. The period of six weeks covers biennial leave, which is customary for workers or people in the northern part of the State. In extending the period to six weeks, I think the Minister is being realistic.

The owner of a dog in the northern part of the State is faced with the expense of transporting his dog from the north to the south and also with the expense of kennelling his dog. Provision should be made for those circumstances. A person who is on ordinary leave would be permitted to leave his dog in the care of a friend or neighbour for a period of six weeks; but the dog owner might be taken ill and might have to be brought by plane to the metropolitan area. The period of six weeks could be exceeded and the dog owner would be in trouble unless we legislated for that particular circumstance. If a person can be trusted to look after a dog for six weeks, then he certainly can be trusted to look after it for three months. I commend the amendment to the Committee.

The Hon. G. BENNETTS: This is a very mild amendment, and I suppose it will be only rarely required. There are not many Alsatian dogs, and not many people who own them would go on long-service leave. I read in *The Australian Women's Weekly* about the dog that saved a person's life. I take it that dog would be equal to any member of the family that owns it. I have a little tyke myself. It is a small one; but I never thought I would become so attached to an animal as I am to this one. People who own Alsatians would stake their lives on them. They treat the dogs as members of the family. These dogs are very intelligent. I think the Minister should agree to the amendment.

The Hon. A. F. GRIFFITH: I understand the association which has been formed by the owners of these dogs is satisfied with the proposal in the Bill.

The Hon. A. L. Loton: More than satisfied.

The Hon. A. F. GRIFFITH: Thank you; that adds weight to my argument. At first I thought this amendment appeared reasonable and I said to my colleague, the Minister for Agriculture, that it might cover the question of a man who goes on long-service leave. He listened to me and then asked where I thought it would start and finish. If it is to apply to a man who goes on three months' long-service leave, will it apply to one who goes on six months or nine months' long-service leave?

The Hon. H. K. Watson: Or two years' authorised leave?

The Hon. A. F. GRIFFITH: I was coming to that. A man may go away for two or three years. He may go on study leave. Surely clause 8 provides sufficient time. We would not know where we were going.

The Hon. J. Murray: You would not know where the dog was, either.

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

The Hon. J. Dolan: You would certainly know where the dog was. That is a silly interjection. The dog is not allowed to go anywhere without the department being informed.

The Hon. A. F. GRIFFITH: I am opposed to the amendment because, in the first place, the association of owners of these dogs is satisfied, and well satisfied, with the amendment; and, in the second place, we do not know to what limits this would go. If the association of owners is satisfied, why should we endeavour to include something which, to say the least, would be uncertain in its application?

The Hon. J. DOLAN: I fail to see where the reasons advanced are logical. I would think a man who owned a dog of this sort would not go away for an unlimited time and leave the dog to the tender mercies of somebody else. The owners of these dogs are very attached to them. I doubt whether over the years one would find more than two or three individuals who would be concerned.

The Hon. A. L. Loton: They would be two or three too many.

The Hon. J. DOLAN: The Dog Act contains ample provision to deal with the position when a dog becomes a nuisance, or anything like that. It can be shot. There is ample coverage apart from the Alsatian Dog Act.

I fail to see how any member can say there is a danger, or a risk to be taken. No doubt the German Shepherd Dog Association favours the amendments, and so do I; but that does not mean to say that I would not favour the extra coverage.

The Hon. A. F. Griffith: What is the honourable member's intention with his amendment? Is it to relieve the owner of the responsibility of transferring ownership?

The Hon. J. DOLAN: Yes.

The Hon. A. F. Griffith: It is?

The Hon. J. DOLAN: He would be relieved of the obligation he had under the old Act by being allowed this period of six weeks, which covers two periods of three weeks' leave, which applies, generally, to workers in the north. They do not come down each year, because of the expense involved. If there is no danger in leaving a dog with somebody for six weeks, surely there is no danger in leaving it for a longer period. If there is danger in one week, there is always danger. If we provide a period of two weeks, we admit someone else can take care of the dog.

The Hon. J. Heitman: That is the thin end of the wedge.

The Hon. J. DOLAN: I am not concerned with the thin end of the wedge. A man may become suddenly ill, and remain so for two or three months, and a friend could look after the dog just as well as the owner could.

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

Ayes—10

Hon. G. Bennetts	Hon. F. R. H. Lavery
Hon. D. P. Dellar	Hon. R. H. C. Stubbs
Hon. J. Dolan	Hon. R. Thompson
Hon. J. J. Garrigan	Hon. W. F. Willesee
Hon. R. F. Hutchison	Hon. H. C. Strickland *(Teller)*

Noes—13

Hon. C. R. Abbey	Hon. G. C. MacKinnon
Hon. A. F. Griffith	Hon. S. T. J. Thompson
Hon. J. Heitman	Hon. J. M. Thomson
Hon. J. G. Hislop	Hon. H. K. Watson
Hon. A. R. Jones	Hon. F. D. Willmott
Hon. L. A. Logan	Hon. H. R. Robinson
Hon. A. L. Loton	*(Teller)*

Pairs

Ayes	Noes
Hon. F. J. S. Wise	Hon. R. C. Mattiske
Hon. E. M. Heenan	Hon. J. Murray

Majority against—3.

Amendment thus negatived.

Clause put and passed.

Clause 4 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

ANZAC DAY ACT AMENDMENT BILL

Second Reading

Debate resumed, from the 9th September, on the following motion by The Hon. A. F. Griffith (Minister for Mines):—

That the Bill be now read a second time.

THE HON. D. P. DELLAR (North-East) [8.44 p.m.]: This Bill, though small, is important because it deals with Anzac Day and the R.S.L., both of which are very important in our country. The measure contains only five small amendments, with the first seeking to widen the definition of "sports." The definition in the Act covers only football matches, racing, and trotting meetings, and the Bill now seeks to include all sports that may be played on Anzac Day.

The second amendment deals with the proceeds that are payable by racing and trotting bodies. Under the Act at the moment racing and trotting clubs throughout the State are required to pay 100 per cent. of the net proceeds from any meeting to the Anzac Day Trust, when such meeting is held on Anzac Day. However, since the original Act was passed, and as a result of experience, it has been found that this provision is somewhat harsh on

country racing and trotting clubs. Therefore, the amendment seeks to provide that all country racing and trotting clubs will be required to pay only 60 per cent. of the net proceeds of any meeting into the fund; but the metropolitan racing and trotting clubs within a radius of 30 miles from the G.P.O., Perth, will still continue to contribute 100 per cent.

To fill a gap which has existed since the introduction of the orginal Act, a third amendment is proposed. This relates to the basis of a distribution of proceeds to homes of ex-servicemen and ex-servicewomen. In the Act at the moment there is no provision for such distribution, and the amendment seeks to widen the relevant section to enable the proceeds from any sporting activity to be distributed among these various homes. There is no doubt that some confusion has existed since the introduction of the original legislation, and the Bill seeks to eliminate this confusion. The fourth amendment seeks only to rectify an error in drafting that was made in the original legislation.

The final amendment is to widen the powers of the trust in relation to any payments that are to be made to the fund. Under the existing Act the trust can enforce racing and trotting clubs or any other sporting organisation to pay the proceeds of the meeting to the fund, but it cannot prosecute. Therefore, this amendment will rectify that anomaly.

I have spoken to a few R.S.L. representatives to obtain their views on the Bill and they seem to be quite happy with the amendments proposed. Therefore there is no need for me to weary the House any further, and I support the second reading.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

AGRICULTURAL PRODUCTS ACT AMENDMENT BILL

In Committee

The Deputy Chairman of Committees (The Hon. F. R. H. Lavery) in the Chair; The Hon. L. A. Logan (Minister for Local Government) in charge of the Bill.

Clause 1 put and passed.

Clause 2: Section 4 amended—

The Hon. N. E. BAXTER: I do not intend to proceed with the first three amendments I have on the notice paper, but I will move the fourth. I move an amendment—

Page 2, lines 11 and 12—Delete the words "in his opinion".

I seek the deletion of these words because it is similar to saying, "I believe". Therefore, it is merely repetition. The definitions of the word "determine" as set out in the *Oxford Dictionary* are quite numerous, but they all mean one and the same thing, that is: decide, come to a conclusion, give decision, etc. Therefore, the inspector is going to determine something, and then the amendment in the Bill provides that it shall be "in his opinion". To me it would seem that the extra verbiage is unnecessary and tends to make the drafting of the Bill a little ridiculous. It would not matter if the words, "in his opinion" were deleted from the clause, because proposed subsection (6), on page 3 of the Bill reads as follows:—

> Any inspector or person acting under the direction or supervision of an inspector is not liable for any loss or damage resulting from or caused by the performance or exercise of any of the powers conferred by this section upon an inspector.

In my opinion the word, "determine" covers the words "in his opinion". If a case came before a court, the court would decide whether the inspector had "determined," and therefore the words "in his opinion" are superfluous.

The Hon. L. A. LOGAN: As the honourable member has said that these words are superfluous and it does not matter whether they are in the Bill, why go to all the trouble of taking them out when there is no need for it?

The Hon. N. E. Baxter: It does not make for good drafting.

The Hon. L. A. LOGAN: I disagree with the honourable member. If we delete the words "in his opinion", in whose opinion will it be determined whether the agricultural product is of good quality? It boils down to the fact that the inspector, in his opinion, has to be satisfied that the fruit, or any other agricultural product, is suitable for placing on the market. In line 24, on the same page, the words, "he may if he is of opinion" appear, and therefore one phrase only follows the other. I do not think there is any need to argue the point that these words should be deleted.

In my opinion they should remain in the Bill, because it definitely provides that, in the opinion of the inspector, he shall determine whether the fruit is of the required standard.

The Hon. H. K. WATSON: I support the Minister. It is a well-known rule of construction that when an Act contains words indicating that something has to be determined in the opinion of any person, the decision of that person shall be final. It is not open to any court to substitute its opinion for the opinion of the person making the decision. If the words, "in his opinion" were deleted, one could

imagine the endless argument that would ensue, and the Roman holiday lawyers would have if the court had to decide whether an agricultural product complied with the requirements of the Act. That is the reason for including the words "in his opinion" in the clause. Those words will make the position clear and final.

The Hon. N. E. BAXTER: The Minister did not fully understand what I said. When the inspector has to make a determination, he does so from the facts. The use of the words "in his opinion" is unnecessary. I have already given the meaning of the word "determine."

Regarding the submission of Mr. Watson, the inspector is amply protected by the provision which states that he is not liable for the acts he performs in taking samples of agricultural products. The Minister mentioned that the inspector could take samples of agricultural products when the inspector was of the opinion that they did not comply with the requirements of the Act. I submit that the inspector has already determined, and, therefore, he must be of the opinion. For that reason the words "in his opinion" are superfluous.

Amendment put and negatived.

Clause put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

House adjourned at 9.3 p.m.

Legislative Assembly

Tuesday, the 15th September, 1964

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