Mr. GRAHAM: No, they knocked off at 8 o'clock; and they knocked off for a week to go to the races, whether they had any business on hand or not. They are the people who reduced the land tax on their friends in the country to the tune of £200,000 net, which had to be met by the workers of East Perth and other places.

The Minister has given us no indication of how he intends to spend the money, or how far it will go. The organisation has not yet been set up; and if £140,000 is regarded as sufficient for the financial year 1960-61, which will be a full 12 months' operations, for this financial year—and there will be only six months left by the time all stages of the Bill have been passed —surely £70,000 will be sufficient! That would be the effect of the amendment. Apparently the Minister wants to go through with the proud distinction of not having a single "i" dotted in the Bill; and no doubt his reward will be to see his name included in the new year's honours! Irrespective of what logic or argument is adduced in favour of the proposition, the attitude of the Minister, and those who blindly and silently follow him, is bound to be the same.

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

Ayes—20.

Mr. Andrew	Mr. W. Hegney
Mr. Bickerton	Mr. Jamieson
Mr. Brady	Mr. Kelly
Mr. Evans	Mr. Lawrence
Mr. Fletcher	Mr. Moir
Mr. Graham	Mr. Rowberry
Mr. Hall	Mr. Sewell
Mr. Hawke	Mr. Toms
Mr. Heal	Mr. Tonkin
Mr. J. Hegney	Mr. May
	(Teller.)

Noes—22.

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

Pairs.

Ayes.	Noes.
Mr. Rhatigan	Mr. Watts
Mr. Norton	Mr. Oldfield
Mr. Nulsen	Mr. Mann

Majority against—2.

Amendment thus negatived.

Clause put and passed.

Title put and passed.

Bill reported without amendment and the report adopted.

House adjourned at 1.5 a.m (Wednesday).

Legislative Council

Wednesday, the 2nd September, 1959

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

QUESTIONS ON NOTICE

TIMBER FELLING

Forests Department Work for Private Sawmillers

1. The Hon. J. MURRAY asked the Minister for Mines:
   (1) In which areas (if any) does the Forests Department contract or tender for felling of timber on behalf of private sawmillers?
   (2) How many fallers (if any) are engaged in this work?
   (3) What is the contract price per load obtained for this work?
   (4) What price per load is paid to fallers employed on this basis?
   (5) Are tools supplied and maintained by the department; if so, on what terms?

The Hon. A. F. GRIFFITH replied:

(1) South-east of Boyup Brook.

(2) Five.

(3) 11s. 3d. per load (full volume), which includes all costs and services supplied by the department in addition to actual falling.

(4) One petty contractor—8s. 3d. per load.

Two departmental piecework fallers 5s. per load.

Two departmental employees at day-work rates.

(5) Transport, power saw, tools, maintenance and insurance are supplied by the department to piecework and day-work fallers at no cost to the fallers. In addition they receive annual leave, long-service leave, and sick leave benefits.

SAWMILLING INDUSTRY

Promotion of Hardwood Sales

2\. The Hon. J. MURRAY asked the Minister for Mines:

As our present Agent-General, prior to appointment, knew the difficulties faced by our sawmilling industry, can the Minister inform the House—

(1) What steps have already been taken by the Agent-General to promote sales of our hardwoods?

(2) If no action has so far been undertaken, will the Government ensure that the Agent-General will take some steps in this direction —at least comparable to those taken in relation to apples, etc.?

The Hon. A. F. GRIFFITH replied:

(1) The Forests Department does not know of any steps taken by the Agent-General to promote the sale of our hardwoods in the United Kingdom. However, the Western Australian sawmilling interests have agents actively working in the United Kingdom.

(2) Yes.

ESPERANCE

Shipments for 1958-59

3\. The Hon. J. J. GARRIGAN asked the Minister for Mines:

What was the total tonnage of each of the undermentioned items which was shipped from Esperance for the 12 months ended the 30th June, 1959:—

(a) salt;

(b) copper concentrates;

(c) gypsum ?

The Hon. A. F. GRIFFITH replied:

(a) Nil.

(b) 4,894 tons.

(c) 10,363 tons.

BILLS (4)—THIRD READING

1. Municipal Corporations Act Amendment.
2. Road Districts Act Amendment.

   Transmitted to the Assembly.
3. Museum.

   Returned to the Assembly with amendments.
4. Cattle Trespass, Fencing, and Impounding Act Amendment.

   Transmitted to the Assembly.

FILLED MILK BILL

Second Reading

THE HON. A. F. GRIFFITH (Suburban —Minister for Mines) [4.40] in moving the second reading said: The history in this State of the measures proposed in this Bill commenced on the 9th September, 1958, when the Farmers' Union of Western Australia wrote to the Hon. L. F. Kelly, then Minister for Agriculture. The letter informed the Minister that dairy farmers throughout Australia had decided to bring to the notice of each State Minister for Agriculture the problem to the dairying industry of the article known as "filled milk." The letter went on to say that the condition of the dairy industry was serious enough to warrant a thorough inquiry into the effect which any introduction could have on producers.

The union pointed out that Western Australia, in particular, was faced with milk marketing problems which had caused, and were causing, concern to producers. This was not the first time that this possible threat to the dairying industry had been conveyed to ministerial level, as, some years previously, attention had been drawn to the danger to the industry that it might represent. At a meeting in October, 1958, of the Australian Agricultural Council of State and Federal Ministers—at which the Hon. L. F. Kelly represented Western Australia—it was agreed unanimously that all States should introduce legislation to prohibit the manufacture and sale of filled milk.

On the 28th January, this year, the Hon. L. F. Kelly, as Minister for Agriculture, advised the secretary of the Processed Milk Manufacturers' Association in Melbourne, that his Government supported the necessity of protecting the Australian dairying industry by preventing the manufacture and sale of filled milk. He advised that his Government had not taken action during the last session of Parliament owing to the lateness with which the question of filled milk was raised. Similar advice was conveyed by the Minister to another organisation on the 6th February, 1959.

The Chief Parliamentary Draftsman has advised that it would be much more satisfactory to draft a new measure than to attempt to amend the Dairy Industry Act

which had been considerably amended on four previous occasions. He also stated that neither that Act, nor the Margarine Act, was the proper one under which to deal with filled milk. Any person seeking the relevant legislation would have some difficulty in locating it under the titles of those two Acts. The appropriate legislation so far has been passed in all other States, apart from Western Australia and Tasmania; and no difficulty has been experienced in any State in obtaining Parliamentary support.

Quoting the States closest to and furthest from Western Australia, it is interesting to note that in South Australia the Labour Opposition supported the Bill and stated it was pleasing that measures were being taken to prohibit the manufacture and sale of filled milk. In Queensland, the Leader of the Opposition (Mr. Duggan) advised that his Party was fully in accord with the Bill, and he commended the Minister for taking early action to prevent a possible major threat to the dairying industry.

The position overseas is that Germany, Switzerland, Belgium and most European countries ban the import and export of products with foreign milk fats. The United States of America does not allow interstate and export trading in such commodities, although substitute milks are permitted by some States. In Canada, production is permitted, but interprovincial and export trading is banned.

As members are probably aware, filled milk is whole milk from which the butterfat has been removed and replaced with vegetable oil. Cocoanut oil is generally used, but other kinds of vegetable fat, such as cotton seed, corn oil, palm kernal oil, and ground nut oil may be used, as well as specially-treated whale oil. It can be produced in evaporated, sweetened, condensed or powdered form; or as a liquid similar to whole milk.

The Commonwealth Bureau of Agricultural Economics has reported that there are over 111,000 persons employed on Australian dairy farms, plus a substantial number employed directly or indirectly in the production and distribution of dairy products. In 1956-57, the gross value of milk produced in Australia was £163,000,000, of which the Western Australian proportion was over £6,000,000. The dairying industry is a most important unit in the Australian economy, and the entry of a substitute milk product would have an extremely adverse affect on its prosperity.

I understand the British dairying industry is worried about the growing sales of a synthetic form of milk that retails at 3d. a pint compared with the average price of 8d. a pint for wholemilk in Britain. The Australian market is fully supplied; and if filled milk was introduced, any sales would be at the expense of existing processed milk products and fresh milk.

The Bill provides that the Act shall come into operation on a day to be proclaimed, and that its provisions will not apply to any product exempted by the Minister by notice in the *Government Gazette*. This is to cover articles which it is not intended to prohibit, such as "Milo," "Nescafe," etc., as well as *bona fide* invalid and infant foods, all of which are difficult to exclude in a definition of "filled milk."

The Bill provides for the appointment by the Minister of an advisory committee of five persons comprising a representative of the Department of Agriculture, who shall be the chairman; a person representing the Milk Board of Western Australia; a nominee of the British Medical Association, who will represent the consumers; a representative of the manufacturers of processed milk, to be selected from a panel of three; and a person chosen from a panel of three names submitted by the Farmers' Union of Western Australia to represent the dairy farmers. The committee will be appointed for a term of three years, and members will be eligible for re-appointment.

The Bill prohibits the manufacture and package of filled milk, and provides a penalty £200 for a breach in the first instance, and £300 for a second or subsequent offence. It will also be an offence to sell filled milk; and the penalties for doing so are £100 for a first offence, and £300 for a subsequent offence.

Other clauses relate to the appointment of inspectors and the necessary powers for legislation of this nature, such as the right of an inspector at any reasonable time to enter and search premises and take samples; or seize, detain, or remove filled milk. In Committee, it is my intention to move an amendment—this is in regard to members of the advisory committee referred to in paragraphs (d) and (e) of clause 5 of the Bill—to delete the words "be deemed by the Minister." I move—

That the Bill be now read a second time.

On motion by the Hon. A. R. Jones, debate adjourned.

FATAL ACCIDENTS BILL

Second Reading

THE HON. A. F. GRIFFITH (Suburban—*Minister for Mines*) [4.58] in moving the second reading said: This Bill has its genesis in a letter written on the 15th June, 1956, to the then Minister for Justice by the former member for Leederville (Mr. S. E. I. Johnson). He pointed out to the Minister that payment of compensation to dependants of accident victims could be adversely affected by the law known familiarly as "Lord Hamilton's Act."

The Solicitor-General reported that the Imperial Act, to which Mr. Johnson referred, was the Fatal Accidents Act of 1846. This measure had no relation to payments under the Workers' Compensation Act, but preserved a right of action in damages to certain dependants of a person killed by negligence. At common law, if a person injured by the negligence of another dies before bringing an action for compensation, his remedy dies with him. The purpose of the Imperial Act of 1846 was to preserve the right of action to the wife, husband, parent, and child of the deceased person. This Act was adopted in Western Australia by Act No. 21 of 1849, which adopted certain Acts of the Imperial Parliament.

In assessing damages for a claim under the Fatal Accidents Act, courts take into consideration all the benefits which the relations receive as a result of the death of the deceased person. Such benefits would include the benefit of a life insurance policy on the life of the deceased person. In 1908, the United Kingdom amended the Fatal Accidents Act to require that in assessing damages, no account be taken of sums paid, or payable, on the death of the deceased under any contract of assurance or insurance. Similar amending legislation has been passed in every Australian State except Western Australia.

In 1947, as a result of a recommendation by the Chief Justice, the then Attorney-General (Sir Ross McDonald) introduced a Bill to exclude insurance, superannuation, provident fund, and like moneys from being taken into consideration in the calculation of damages. It was also desired to extend the benefits of the Act to adopted and ex-nuptial children, and brothers and sisters, of the deceased person; and to allow the court to grant a solatium of up to £500 to the dependant, in addition to other damages.

The Bill was attacked by several members and eventually lapsed. No action was taken by the then Government as a result of Mr. Johnson's representations; but on being brought this year to notice, the Attorney-General recommended that a Bill be introduced. There is no doubt that the law in Western Australia is inferior in this connection to that of the United Kingdom and other Australian States.

The Bill proposes to rectify this rather sorry state of affairs. Not only does it propose that insurance benefits shall not be taken into consideration in the assessment of compensation, but it includes in the same category moneys payable under any superannuation, provident or similar scheme; as well as any moneys paid by way of repatriation, age, coal mine workers', mine workers' relief, and widows', pensions.

The Bill enables an award to be made for medical expenses incurred as a result of the injury causing death; also funeral expenses if these have been incurred by the parties for whose benefit the action has been brought before the court.

Under the Bill, an illegitimate child of the deceased person has been included as one for whose benefit an action can be commenced; provided that, during the lifetime of the deceased person, he had contributed maintenance or agreed to support the child; or if a maintenance order had been made against him in respect to the child.

The Bill also includes adopted children. There does not appear to be any doubt that, irrespective of this Bill and because of the Act relating to the adoption of children, a lawfully adopted child could claim, in proper circumstances, compensation for the loss of his adopting parent. However, the inclusion of adopted children in the Bill is necessary to enable adopting parents to claim in respect of the loss of the adopted child—if they can establish that they have sustained loss through his death.

This ability to prove loss as a result of death caused by the negligence of the wrongdoer, is an essential part of any proceeding under such a law as this. It is easy to imagine the serious loss occasioned to a widow and also to her children by the death, in such circumstances, of their breadwinner. But there can be other cases where loss can be proved, such as where it can be shown that the deceased person was a contributor towards the maintenance of any of the persons who, under this Bill, when it becomes an Act, will be able to take proceedings.

All this is made clear in the Bill, which provides that damages awarded by the court shall be proportioned to the injury resulting from the death to the parties respectively for whom and for whose benefit the action is brought; also, that the amount of damages recovered shall be divided among the persons in such shares as the court finds and directs. The direction of the court in this matter is to be required even if the defendant pays money into court, in that it is provided it is not to be paid out of court, except under the judge's order.

The Bill provides that, normally, the action shall be brought by the executor or administrator of the deceased person. However, if there is no executor or administrator, or where the executor or administrator does not take action within six months of the death, then any one or more of the persons for whom the executor or administrator might have acted may bring the action.

If the wrongdoer dies before an action is commenced against him and within twelve months of the death of the person killed

as a result of his negligence, action may be brought against the executor or administrator of the wrongdoer if the action is brought within six months after the grant of probate or administration.

The Bill provides that only one action can be brought in respect of the same subject matter, and that action shall be commenced within 12 months after the death of the person in respect of whose death the cause of action arose.

Representations were made after the Bill was originally drafted for provision to be made to enable the court to grant an extension of time; and, in another place, the Attorney-General successfully moved amendments enabling action to be taken within six years of the date of death. Funeral expenses as damages, at present, can be recovered; but only by the estate of the deceased person.

In some cases, there are insufficient assets to warrant an application for probate or letters of administration; and, in such cases, the widow might have to go to the considerable expense of taking out probate or letters of administration in order to receive a comparatively small amount of funeral expenses. The Bill enables this to be avoided.

The persons included in the definitions of "parent" and "child" in the Bill, subject to the express provisions regarding exnuptial and adopted children, are all included in those who can now obtain damages under the existing law—but, I repeat, subject to proving actual loss as a result of the death of the person who has lost his life by reason of the negligence of another. Without proof of this loss, damages will not be awarded. I move—

> That the Bill be now read a second time.

On motion by the Hon. H. C. Strickland, debate adjourned.

JUDGES' SALARIES AND PENSIONS ACT AMENDMENT BILL

Second Reading

Debate resumed from the previous day.

THE HON. E. M. HEENAN (North-East) [4.57]: I think we can all support this small Bill. As the Minister pointed out, the main proposals are to increase the salary of the Chief Justice from £4,150 to £5,250; the salary of the Senior Puisne Judge from £3,650 to £4,750; and the salaries of the other judges from £3,500 to £4,600.

The present salary of the Chief Justice is £4,150; and, as the Minister pointed out, the salary of the Chief Justice in New South Wales is £5,250. In South Australia, the salary of the Chief Justice is £5,000; in Victoria it is £5,800; in Queensland is is £4,900; and in Tasmania it is £4,000. From a comparison of those figures, I think members will realise that a change is well justified.

I agree entirely with the Minister that the question of population should not be a basis of comparison. The fact that the population of Western Australia is far below that of New South Wales or Victoria—or, perhaps, Queensland—is not a logical reason why the judges of this State should be treated in a lesser degree, as regards salary, than the judges in the other States.

The high position which the judges hold is of the utmost importance to the wellbeing of all concerned. In a democracy it is of the greatest importance that justice should be available to every man, woman and child, irrespective of his station in society. It is of the utmost importance that judges be absolutely independent, fearless, and incorruptible. For those reasons, as regards salary, they should be placed in a position where, at least they should never have to be short of money, or have to do without the ordinary things which their high position and standard of living require.

It might be of interest if I were to read an extract from the *Australian Law Journal* of July last which, by a coincidence, has in it an article portions of which have a direct bearing on this matter, and which express the outlook far better than I am able to do. It states—

> Nobody in past generations contemplated trying to evaluate the worth of a judge in terms of hours of work or type of work, or trying to arrive at his salary by a close comparison with the financial benefits received by a politician or a public servant. In so far as any exploration was thought desirable, the comparatively high salaries paid to judges were justified on the basis that it was necessary that they should appear to be beyond the reach of corruption. From time to time the need to attract men of the highest calibre has been emphasised, and, as has been pointed out, this could not be ensured unless high salaries were offered. While time and a change in conditions may have lessened the importance of the first consideration, the second consideration remains of great importance. Most of our great judges have been found among the leaders of the bar, and, speaking generally, an outstanding practitioner can at present only accept appointment to the bench at a considerable financial sacrifice. It is to their credit, of course, that many have made such a sacrifice. Frequently the result is that they must alter their whole method of living, and, in particular must harshly prune their annual expenditure.

> There is, however, a third aspect which has become more important under modern conditions, and that is the need for the judiciary both to be independent of the executive and to appear to be so. Since the time of Coke it has been recognised that it is vital to our constitution that the judiciary should be fearlessly independent of the executive. It is, of course, also essential to public confidence in the administration of the law that it should appear that this principle is being maintained. In the past, the appearance of independence has in part been achieved by maintaining the salaries of the judges of superior courts at a substantially higher level than those paid to most Ministers and to senior public servants. It is necessary for a large measure of this disparity to be restored . . . .
>
> As Sir William Holdsworth said, " . . . it behoves us, who live under 'a perfect democracy' to take stock of the services which the judges have already rendered to the cause of liberty, and to the evolution of law, and to ask ourselves whether, by our treatment of this matter of the remuneration of the judges, we are not undermining almost the only guarantee still left to us for the preservation of our liberties, and the maintenance of a sound legal tradition."

While on the subject of judges' salaries, it may not be inopportune for me to make mention of a proposal to which I think the Government should give consideration. This proposal arises through the reference the Minister made in his remarks to the increasing work of judges, and to the probability of the appointment of another judge.

As we all know, the Supreme Court, and the judges, are here in Perth; and Western Australia is a growing State with tremendous distances. Outside the jurisdiction of the Supreme Court, we have the local court jurisdiction of magistrates; and that entitles them to deal with matters involving amounts of up to £500. It used to be only £100, but some members will recall that five or six years ago the amount of £100 was increased to £500. If litigants at Kalgoorlie, Bunbury, Albany, Geraldton, Wyndham or Broome, have disputes involving amounts up to £500, their actions can be tried by the magistrates in those districts. But if their civil disputes involve amounts above that figure, they either have to come to Perth to have their actions tried in the Supreme Court, or they have to put up with—and I use that term for lack of a better one—their actions being tried by a commissioner who is invariably the magistrate for the district.

Under ordinary circumstances, a magistrate cannot deal with manslaughter charges, divorces, or murders; but to avoid the expense and inconvenience of sending a judge from Perth to Kalgoorlie, Bunbury, Geraldton or Wyndham, for instance, the practice has grown up of investing the local magistrate with a special commission, and that clothes him in the garb of a judge and gives him jurisdiction to deal with serious matters.

Some years ago, when the population was smaller and the number of such cases comparatively few, that practice could perhaps have been tolerated. But with the growth of this State, and the increase in litigation, I think it is time that the practice was stopped. It simply means that if two persons have serious litigation in Perth, they have the benefit of their action being tried by a Supreme Court judge; but if they happen to be in Geraldton, Kalgoorlie or Wyndham, the probability is that their action will be tried by a magistrate, who possibly is not even a legal practitioner.

Persons charged with stealing, manslaughter or murder, or those involved in divorce cases, frequently have their trials or actions presided over by these magistrates. That comes about simply because they happen to live at Geraldton, Bunbury, Kalgoorlie, Cue or Wyndham.

The proposal I wish to submit to the Minister is that the time is now opportune for the appointment of one, two or three district court judges, somewhat along the lines of the system which prevails in some of the other States. These judges are allotted to certain districts; and at this stage in our development one or two such appointments would probably be adequate. But I am convinced that these appointments would make for better administration of justice; and they would mean that people in these outlying places would not get a type of trial different from that available to those more fortunate citizens who live near the metropolitan area.

I do not want it to be inferred from any of my remarks that the magistrates are not men of the greatest integrity; but it will be readily realised that they are not in the same category as judges because of a judge's training, experience and wisdom. I hope the Minister will make a note of that viewpoint because, as I said, at this stage of our development I think some such system should be introduced. I support the Bill.

On motion by the Hon. G. E. Jeffery, debate adjourned.

FIRE BRIGADES ACT AMENDMENT BILL

In Committee

The Deputy Chairman of Committees (the Hon. G. C. MacKinnon) in the Chair; the Hon. A. F. Griffith (Minister for Mines) in charge of the Bill.

Clauses 1 to 4 put and passed.

Clause 5—Section 25A added:

The Hon. H. K. WATSON: I have given some thought to my amendment and that

of the Minister appearing on the notice paper, but I intend to proceed with mine. There is some substance in the view of Dr. Hislop that even with the inclusion of this amendment, the clause is not complete. The position would be left open dangerously, but my amendment will have the merit of restricting the nature of the order to some degree. I move an amendment—

> Page 4, line 18—Delete the passage commencing with the subparagraph designation "(a)" down to and including the word "fire" in line 26 and substitute the following:—
>
> > portable equipment, apparatus or appliances for the purpose of preventing the outbreak of or extinguishing fire.

The Hon. A. F. GRIFFITH: The honourable member has just given the reason why the amendment should not be agreed to. He stated that if my amendment is accepted, it will have the effect of restricting the nature of the order. That is exactly what the amendment will achieve. I agree that the provision in the clause is very wide in that the board can order the owner or occupier of a building to install water taps, water pipes, connections, fittings, and equipment. If the amendment is passed, the board will be left with only one type of authority, and that is to order the installation of equipment of a portable nature.

However, if my amendment is agreed to, then the owner so ordered by the board to fit equipment into a building, can appeal against the order if he is not satisfied. That is a much more satisfactory way of dealing with the position. It would be a pity to limit the authority of the board to order only the installation of portable equipment.

The Hon. H. C. Strickland: That would be pretty tough if the owner was ordered to provide a truck with a water tank.

The Hon. A. F. GRIFFITH: An order so issued could be tough, but if my amendment is agreed to there will be the right of appeal.

The Hon. J. G. HISLOP: It appears that the board is desirous of having a wide coverage so that it can issue an order for the installation of all classes of equipment for the purpose of fire prevention. Surely the board should be able to classify the various types of buildings for which certain types of equipment are necessary.

The owner of a building could be put to considerable expense in appealing against a decision of the board. I doubt very much whether the magistrate hearing an appeal would find it easy to arrive at a decision against the board, which is appointed for the purpose of fire prevention. A very strong case would have to be put up before an appeal could succeed.

I consider that the whole clause should be deleted, after which another provision could be drawn to cover what is required by the Fire Brigades Board. I have given thought to the idea that regulations could be made to cover the position, but there is the danger of regulations being made when Parliament was not sitting. Under those circumstances, owners of buildings could be put to considerable expense in having to comply with an order.

We should realise that the board will invariably accept the advice of the chief officer of the fire brigade, and that advice will vary from time to time. I understand from good authority, that it has not yet been posssible to get agreement on a standard type of equipment for fire fighting in Australia; therefore individual fire chiefs will have to advise the board as to the type most suitable. We know that the views of fire chiefs vary. If we have in writing the type of equipment which shall be fitted to the various classes of buildings, the position will be dealt with more adequately than by the provision in the clause.

The Hon. A. F. GRIFFITH: The honourable member said it might be advantageous to make regulations to cover the situation. That suggestion has not been put forward by the Government, because it considers it to be undesirable. A regulation can be made whereby the owner of a building is ordered to provide certain equipment within a specified period. During that time Parliament may be in recess. The order so issued may be drastic, and Parliament would have no chance of dealing with the regulation while it was in recess. In that event the owner would have to comply with the order; but if my amendment is agreed to, a right of appeal will be given to the owner. Of the two proposals put forward, the one contained in my amendment is the more satisfactory.

The Hon. J. G. HISLOP: It appears that a more dangerous situation could be created if the amendment of the Minister is agreed to, as he has pointed out that a drastic order could be issued under a regulation and the owner would have no redress while Parliament was in recess.

The Hon. A. F. Griffith: He would have the right of appeal.

The Hon. J. G. HISLOP: The owner would have no redress, whether or not Parliament was sitting, unless he was prepared to go to the expense of appealing.

Amendment put and negatived.

The Hon. J. G. HISLOP: I wish to draw attention to proposed section 25A (2) which states that "premises" do not include premises which consist of a private dwelling house designed for the use and occupation of one family. Under this provision the board can order the owner of a small dwelling, which has been divided into two housing units, to install certain fire fighting equipment. That might be costly.

The owner would have no redress except to appeal against the order. The board should not be given this power to

issue an order in respect of small buildings such as these, because invariably they are already fitted with taps and water pipes. The ordinary water pipes, provided they are fitted with a hose, can deliver water. Surely a house with two occupants is not going to have to be fitted with hydrants. I move an amendment—

> Page 4—Delete subsection (2) of proposed new section 25A.

The Hon. H. K. WATSON: I point out to Dr. Hislop that the deletion of subsection (2) will not give him the desired effect. The situation will be worse. The provision will apply then not only to a flat but to a private dwelling. For that reason I feel inclined to oppose this amendment.

The Hon. J. G. HISLOP: I would be prepared to vote against the whole clause later. That is the only way to deal with the situation. I ask for leave to withdraw my amendment.

Amendment, by leave, withdrawn.

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

> Page 4, line 38—Add the following subclause:—
>
> (4) (a) A person who is aggrieved by a direction of the Board may within seven days of the receipt by him of the notice appeal in manner prescribed against the direction to a Court of Petty Sessions held nearest to the premises referred to in the direction, on the ground that the things directed to be installed and provided in or upon the premises are not reasonably required by the Board for any of the purposes referred to in paragraph (b) of subsection (1) of this section.
>
> (b) On the hearing of the appeal the Stipendiary Magistrate may confirm, vary or cancel the direction and effect shall be given to the decision of the Stipendiary Magistrate according to its tenor.
>
> (c) A Court of Petty Sessions hearing an appeal under this subsection shall consist of a Stipendiary Magistrate.

The Hon. H. K. WATSON: I move—

> That the amendment be amended by deleting the word "seven" and substitute the word "twenty-one" in line 2.

I feel that seven days is far too short a time. A man might receive notice on a Wednesday, and not attend to it until the week-end had gone; and the time in which to appeal would then have expired.

Amendment on amendment, put and passed.

The Hon. H. K. WATSON: I feel that a right of appeal to a court of petty sessions consisting of a stipendiary magistrate is not really sufficient, having regard to some of the amounts which may be involved. Only a few moments ago, Mr. Heenan explained to us the difference between the learning, experience, and wisdom of a judge, and that of a magistrate. Whilst we are at a disadvantage, because of the fact that the Minister at no time during the debate has given us a real outline of what the Fire Brigades Board has in mind if it gets this power, we have to take the provisions as they stand; and presumably the board could instruct the manager of a factory to install a sprinkler system at a cost of £20,000 or £30,000.

If an argument arose on a question of that nature, I feel that the right of appeal should lie to a more substantial and experienced body than a court of petty sessions. I therefore move—

> That the amendment be further amended by deleting the words "Court of Petty Sessions held nearest to the premises referred to in the direction" and substituting the words "Judge of the Supreme Court" in lines 6 to 8 of proposed new subclause (4).

The Hon. A. R. JONES: I am not at all happy with the situation as stated in the original amendment; but neither am I happy with the amendment proposed by Mr. Watson. It would cost a terrific amount of money to make an appeal either to a court of petty sessions or to a judge of the Supreme Court; and people would be deterred from making the appeal because of that cost. I would sooner that the discussion was taken further, and that the Minister reported progress so that more thought could be given to this question. I imagine that an arbitrator could be appointed. This would be more satisfactory and would reduce the cost to the person concerned. I do not feel inclined to vote for either the amendment, or the amendment on the amendment.

Of course, I realise that some protection is needed. If, for argument's sake a person was asked to pay £5,000 for some installation, which was outside the limits of his business, he might feel he had the right of appeal. If he appealed, and the amendment, or the amendment on the amendment, were passed, he could be up for £600 or £700; and he could lose his case, and still have to pay the £5,000 as well as the £600 or £700. If an arbitrator or a panel of men were appointed to deal with these cases, the cost would be lessened, and the appeals could be dealt with much more quickly than if they had to go to the Supreme Court or a court of petty sessions. I ask that the Minister defer consideration of the matter. Perhaps Mr. Watson would like to make some comment on my remarks.

The Hon. H. K. WATSON: There is quite a lot in what Mr. Jones has said. I agree with him; and it is only because of lack

of time in which to consider the measure that I suggested a judge of the Supreme Court. I feel that this is essentially a practical question, and I am not at all persuaded that a judge of the Supreme Court is the logical authority to decide these matters unless he has the assistance of, say, a fire brigade officer; an architect; or an experienced builder.

The Hon. A. F. Griffith: I will report progress.

The Hon. H. K. WATSON: If the Minister would report progress and give some consideration to what Mr. Jones and I have said with a view to ensuring a practical appeal, I think it would help. I am concerned about the cost of an appeal; and, in fact, about the whole clause. I think there is a lot in what Dr. Hislop said in that the clause might well be deleted from the Bill and considered at a later stage.

The Hon. J. G. HISLOP: If the Minister is willing to report progress, would it be possible to delay the Bill long enough for him to inquire from the board whether it could delineate more clearly its requirements. It is the duty of a board to make clear to Parliament and the people what it does require rather, than that we should be given an all-embracing power such as is envisaged in this Bill.

The CHAIRMAN: Might I suggest that the amendment on the amendment at present before the Committee, be withdrawn to enable easier drafting and printing of the Bill?

The Hon. H. K. WATSON: Yes. I ask for leave to withdraw my amendment on the amendment.

Amendment on amendment, by leave, withdrawn.

Progress reported.

POLICE ACT AMENDMENT BILL

Second Reading

Debate resumed from the previous day.

THE HON. A. F. GRIFFITH: (Suburban—Minister for Mines—in reply) [5.43]: There arise, from the debate on this Bill, one or two matters that require some clarification. Mr. Watson asked me to make some comment on the question of onus of proof. Upon examining the situation, I find that onus of proof exists in similar legislation in the other States. The wording of the statutes in some of those States is almost identical with that of the measure now before us. In section 90 of the Police Act of South Australia we read—

> Any person who obtains any chattel, money or valuable security by passing any cheque which is not paid on presentation shall unless he proves (a) that he had reasonable grounds for believing that the cheque would be paid in full on presentation and (b) that he had no intent to defraud—

That is similar to the wording of this Bill. In section 178(b) of the Crimes Act of New South Wales we read—

> Whosoever obtains any chattel, money or valuable security by passing any cheque which is not paid on presentation shall unless he proves (a) that he had reasonable grounds for believing that the cheque would be paid in full on presentation and (b) that he had not intention to defraud—

The Hon. H. K. Watson: Is there anything about a six months' limitation there?

The Hon. A. F. GRIFFITH: In this Act there is reference to the penalty being one year, whereas we are providing a penalty of six months, imprisonment. I next refer to our own Criminal Code—and this is a point which Mr. Watson brought to notice in regard to the difference between the penalty under the Criminal Code and that provided under the Bill. Section 426(f) of the Criminal Code says—

> Obtaining or procuring the delivery of anything by a false pretence with intent to defraud—

and sets out the penalty at £50. It provides further—

> (1) The value of the property in question does not exceed Fifty pounds; or
>
> (2) The accused person admits that he is guilty of the offence and it appears to the justices that the nature of the offence is such, whatever may be the value of the property in question, that the offender may be adequately punished upon summary conviction;
>
> the justices may deal with the charge summarily.

That is under the Criminal Code; but in this case it is pointed out that the action is one where the person concerned takes nobody else into his confidence. Mr. Bennetts referred yesterday to what has happened on the Goldfields.

An offender takes nobody into his confidence; but pays a small amount of money into a bank and then deliberately draws cheques on that account, frequently to a value much greater than the sum deposited. If he did not set out to do that, the prevailing circumstances would be the opposite. I refer to an instance where, perhaps, a deposit required to meet the cheque did not arrive at the bank in time; and in that case the person concerned would have no difficulty in proving the fact. The Bill provides that prosecutions can be carried out only with the consent of the Commissioner of Police.

When an investigation is carried out and it is found that there has been no intention to defraud, the Commissioner

of Police, of course, will not authorise a prosecution to take place. I have here a note to the Attorney-General, dated the 23rd April, 1959, from the Under Secretary of the Crown Law Department, and it reads as follows:—

> I discussed the proposals with the Commissioner of Police, who is of the opinion that the Bill as drafted by the Chief Parliamentary Draftsman would be satisfactory, but he thinks that 90 days would be preferable to 60 days as the arbitrary period from the date of opening an account. He can see no objection to the proposal that no prosecution should be commenced without the written consent of the Commissioner of Police or his deputy. Of course, this would not apply in regard to investigations preparatory to prosecutions, but as explained by the Commissioner, investigations are often in the interests of the person being investigated.

I am conscious of the fact that we hold tenaciously to the onus-of-proof principle in British justice; but I point out that in gold-stealing charges, for instance, the onus of proof is on the defendant; and in many cases there is good reason for the principle. I hope I have given a satisfactory explanation in regard to the provision, in this measure, regarding the onus of proof.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (the Hon. A. R. Jones) 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 64A added:

The Hon. H. K. WATSON: In view of the note which the Minister read, where the Commissioner of Police seems to think that 90 days is preferable to 60 days, does he intend to amend the clause, or does he object to its being amended? It seems to me that, as part of a preconceived plan, a person could open a bank account, and issue a valueless cheque after 65 days; and the provision would not apply. In the other Acts which the Minister quoted, there did not appear to be any period specified.

The Hon. A. F. GRIFFITH: I have not had an opportunity to examine those other Acts in that regard; but I do not think it matters much, because if we include 90 days the cheque could be written out after 95 days, just as Mr. Watson mentioned in regard to the shorter period.

The Hon. H. K. Watson: Then why limit it at all?

The Hon. A. F. GRIFFITH: I understand that the reason for the limitation is that it is thought that most people likely to commit this offence would open an account and draw the cheque almost immediately afterwards. It is thought that with a period of 60 or 90 days inserted, an offence would be less likely to be committed.

Clause put and passed.

Clause 4 and Title put and passed.

Bill reported without amendment and the report adopted.

INDUSTRY (ADVANCES) ACT AMENDMENT BILL

First Reading

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

ART GALLERY BILL

Further Recommittal

On motion by the Hon. J. G. Hislop, Bill again recommitted for the further consideration of clause 13.

In Committee

The Chairman of Committees (the Hon. W. R. Hall) in the Chair; the Hon. A. F. Griffith (Minister for Mines), in charge of the Bill.

Clause 13—Proceedings of Board:

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

> Page 5, line 16—Delete the word "three" and substitute the word "five."

This amendment is consequential on the provision to increase the number of members on the board.

Amendment put and passed; the clause, as amended, agreed to.

Bill again reported with a further amendment.

Sitting suspended from 6.3 to 7.30 p.m.

LEAVE OF ABSENCE

Sir Charles Latham's Visit to New South Wales

THE HON. A. F. GRIFFITH: I move, without notice—

> That leave of absence from the 4th September until the 21st September be granted to the Hon. Sir Charles Latham, President of the Legislative Council.

In moving this motion, it is, perhaps, a departure from the normal procedure where a member who is absent for some particular reason—usually because of, say, illness—asks one of his colleagues in the province he represents to move formally that he be granted leave of absence.

It is perhaps fortunate on this occasion that we are not obliged to ask leave of absence for you, Sir, on account of anything but the fact that you are going to be away for, I think, approximately six consecutive sitting days; because you are going back to a place in New South Wales where you spent a considerable part of your early life. I point out to members that Sir Charles Latham has been invited by the organising committee to visit Hay, in New South Wales, to attend the centenary celebrations of that town, which commence on Saturday, the 5th September.

You lived in Hay, Sir, for a period of 12 years from 1891 to 1903; and you left there when you were married in 1903. After spending a further 2½ years there, subsequently to being married, you came to Western Australia to take up farming in 1910. Those periods track down quite a long span of time; and it was in 1921 that you first became a member of the legislature of this State. Since that time you have served in different capacities in various Houses of Parliament—both in the State and the Federal spheres. You have had a long and distinguished political career, Sir; and, personally, I think it is extremely nice that you should be invited to go back to Hay for the formal celebrations.

I am quite certain that the members of the Legislative Council wish you well, and that they hope you will have a most enjoyable trip. We trust you will enjoy your stay away, and that you will return to us to take your seat again where you will remain until the end of the present session. We know it is your intention, Mr. President, to retire from Parliament at the end of the present term, and that you will not again stand for election. I think it is obvious that the people with whom you were connected for such a period of time have shown their liking for you, in their desire to have you back among them for the celebrations. We hope you have an excellent trip, and we wish you well.

THE HON. H. C. STRICKLAND: It gives me pleasure indeed to second this motion. I can only endorse all that the Minister has already said. We know that this invitation to participate in the celebrations to be held at Hay is something that you, Mr. President, value very much indeed; and on behalf of my colleagues—some of whom may also like to say something—I wish you a very pleasant journey and a happy time during the festivities.

I hope you will dismiss any thoughts you may have as to how the Legislative Council will carry on during your absence, because I can assure you, Sir, that your deputy, the Chairman of Committees, who will be acting in your place, will receive the full co-operation of members here; and I feel sure that he in turn will also co-operate with the members.

The Hon. A. F. Griffith: Hear hear!

The Hon. H. C. STRICKLAND: We hope we will cause you no undue anxiety during your trip to the Eastern States.

THE HON. A. R. JONES: You know Sir, how the members of your own Party feel about your going away. But I take this opportunity of endorsing the sentiments of those who have already spoken. We wish you a happy voyage and a very pleasant stay there. On behalf of the Country Party, I have much pleasure in supporting the motion.

THE HON. R. THOMPSON: May I also, as a junior member of the Chamber, endorse the remarks of the previous speakers and wish you well, Mr. President. I hope you have a most enjoyable time, and may you make hay while the sun shines!

Question put and passed.

THE PRESIDENT: Mr. Minister, Mr. Strickland, Mr. Jones, Mr. Thompson and fellow members, I am indeed grateful for the privilege you have granted me for being absent for six consecutive sitting days. I know very well that I shall not be missed, but I know I will be welcome when I return. This House has been extremely kind to me. I know that age probably does not permit me to be as alert as I was when I first entered politics, but you have all been very kind and generous to me.

I shall take to my old friends in Hay, New South Wales, the warm feelings of this House for their having released me from my duties as their President, thus enabling me to join with the people of Hay in their centenary celebrations.

ADJOURNMENT—SPECIAL

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

> That the House at its rising adjourn until Tuesday, the 8th September, 1959.

Question put and passed.

House adjourned at 7.39 p.m.