

The Hon. H. K. WATSON: —or on which there is any fuel-burning or industrial plant. I think as the Bill is constructed one would be hard put to argue that it covers residential properties. However, I agree with the honourable Mr. Wise that in the circumstances he mentioned a good case could be made for the Bill being extended.

The Hon. L. A. LOGAN: I appreciate there is quite a lot coming out of this discussion, but I think the fact that mention is made of industrial plant rather debars the question of a householder.

The Hon. F. J. S. Wise: Would the Minister consider recommitting the Bill to broaden that definition?

The Hon. L. A. LOGAN: It would be quite easy to do that. I will have it re-committed if necessary.

Clause put and passed.

Clauses 34 to 36 put and passed.

Clause 37: Prohibition of dark smoke from chimneys—

The CHAIRMAN (The Hon. N. E. Baxter): It will be necessary to make a correction in line 23 on page 24. The word "form" should be "from."

Clause, as corrected, put and passed.

Clause 38: Prescribed standards of air impurities not to be exceeded—

The CHAIRMAN (The Hon. N. E. Baxter): A similar position arises here in line 28. The word "hereof" should be "thereof."

Clause, as corrected, put and passed.

Clause 39: Control of trades industrial processes, fuel burning equipment and industrial plant—

The Hon. J. DOLAN: I was wondering whether the honourable Mr. Wise's point might be covered under this clause. It might be covered under fuel burning equipment, but if it is read to mean that it applies only to premises on which is conducted any trade, industry, and so on, it would not apply.

The Hon. L. A. LOGAN: Having looked at clause 39 and the definitions I would say a householder is precluded under the Bill.

Clause put and passed.

Clause 40: Powers of Chairman—

The CHAIRMAN (The Hon. N. E. Baxter): There is another alteration required in this clause. The word "pollutation" in line 37 on page 25 should read "pollution."

Clause, as corrected, put and passed.

Clauses 41 to 53 put and passed.

Schedule put and passed.

Title put and passed.

Bill reported with an amendment.

House adjourned at 5.32 p.m.

# Legislative Assembly

Thursday, the 15th October, 1964

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The SPEAKER (Mr. Hearman) took the Chair at 2.15 p.m., and read prayers.

## QUESTIONS ON NOTICE

## MOTOR VEHICLE (THIRD PARTY) INSURANCE

## Premiums, and Financial Results of Trust

1. Mr. GRAHAM asked the Minister representing the Minister for Local Government:
  - (1) What are the premiums at present being charged for policies of insurance under the provisions of the Motor Vehicle (Third Party Insurance) Act?
  - (2) From when have these rates been applying?
  - (3) What are the financial results of the past year's operations of the trust?

Mr. NALDER replied:

	Class No.	Schedule Class of Vehicle	Maximum Annual Premium Rate £ s. d.
1A.(a)		MOTOR CAR.—Any motorcar used for private or business purposes and constructed principally for the conveyance of persons not included in classes 2 to 7 inclusive .....	8 8 0
1B.(b)		AMBULANCE VEHICLE, FIRE BRIGADE VEHICLE, UNDERTAKER'S VEHICLE, MOTOR VEHICLE OWNED AND USED BY THE SPASTIC WELFARE ASSOCIATION— "Ambulance Vehicle": Any motor vehicle constructed and used for the conveyance of sick or injured persons. "Fire Brigade Vehicle": Any motor vehicle owned by or under the control of the Western Australian Fire Brigades Board. "Undertaker's Vehicle": Any motor vehicle used solely as an undertaker's hearse or mourning coach .....	4 0 0
2.		GOODS VEHICLE.—Any motor vehicle not included in classes 3 to 7, both inclusive, constructed principally for the conveyance of goods. This class includes a wagon, utility, station wagon, road tractor used on highways for haulage of goods such as wheat-carting, log-hauling, etc. ....	7 16 0
3.		HIRE VEHICLE.—(a) Any motor vehicle, other than a taxi-cab and "Hire-and-Drive-Yourself" vehicle licensed under the Traffic Act to carry 8 or more persons principally operating on routes, the major portion of which is within the 25-mile radius of the G.P.O., Perth .....	43 10 0
		(b) Any motor vehicle, other than a taxi-cab and "Hire-and-Drive-Yourself" vehicle licensed under the Traffic Act to carry 8 or more persons principally operating on routes, the major portion of which is outside the 25-mile radius of the G.P.O., Perth .....	13 16 0
		(c) Taxi-cab principally operating within a 25-mile radius of the G.P.O., Perth .....	27 18 0
		(d) Taxi-cab principally operating outside a 25-mile radius of the G.P.O., Perth .....	10 16 0
		(e) School buses, i.e., vehicles used primarily for the carriage of children to and from school, and any other vehicle constructed similarly to an omnibus privately owned and used for conveyance of non-paying passengers .....	8 8 0
		(f) Any motor vehicle used for the carriage of passengers for hire, fare or reward, not included in classes 3 (a) to 3 (e) inclusive .....	6 18 0
		(g) Hire-and-Drive-Yourself vehicle .....	43 4 0
4.		MOTOR CYCLE.—Other than motor cycle included in class 5 (b) .....	4 16 0
5.		MOTOR TRADE VEHICLE (i.e., motor car manufacturer, garage proprietor, vendor of and/or dealer in motor cars).— (a) Motor vehicle not included in classes 5 (b) and 5 (c) used by the above with identification plate attached issued under the Traffic Act—rate per identification plate issued .....	5 8 0
		(b) Motor Cycle used by the above, with identification plate attached issued under the Traffic Act—rate per identification plate issued .....	2 14 0
		(c) Breakdown ambulance .....	2 14 0
6.		TRAILER, CARAVAN, INVALID WHEEL CHAIR.—(This class includes all vehicles issued with trailer plates, but does not include prime mover or road tractor, which are insured separately under class 2) .....	12 0
6A.		VETERAN CARS.—Motor cars which are the subject of a limited traffic license as a veteran car and only whilst being used in accordance with the provisions of such license—Premium .....	1 10 0
7.		MISCELLANEOUS.—(a) Road Roller, Tractor (farm type), Motor Street Flusher, Tar Sprayer and Roller, Motor Eductor, Street Sweeper, Petrol Electric Mobile Crane, Steam Excavator, Traction Engine, Road Grader, Motor Cycle not exceeding 75 c.c.s., and any other vehicle being a motor vehicle within the meaning of the Motor Vehicle (Third Party Insurance) Act, 1943 .....	1 10 0

Class No.	Class of Vehicle	Maximum Annual Premium Rate £ s. d.
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- (b) **FARM FIRE-FIGHTING VEHICLES.**—Any vehicle that is owned by a person engaged in the business of farming or grazing and that is fitted or adapted for the purpose of fire-fighting, licensed under a limited license limiting it to use on a road for fire-fighting purposes, bearing number plates having white numbers or letters and numbers on a red ground, and used exclusively for fire-fighting purposes

—Premium ..... 1 10 0

**N.B. : "SHORT PERIOD RATES."**—The premium chargeable for any period less than 12 months shall be calculated at one-twelfth of the annual rate for each month or part thereof, plus a fee of 1s. (one shilling). This does not apply where a license is effected on a new vehicle, provided that the license is issued for the maximum period permitted by the licensing authority.

**N.B. : "TEMPORARY PERMITS."**—The premium chargeable for a Temporary Permit, issued by any licensing authority under the Traffic Act, 1919, shall be 2s. 6d. (two shillings and sixpence).

- (2) With the exception of farm fire-fighting vehicles which operated from the 6th March, 1964 and veteran cars which operated from the 23rd September, 1964, all rates applied as from the 1st January, 1964.

- (3) The official results of the activities of the Trust for the year ended the 30th June, 1964, as laid before the House of Assembly on the 25th August, 1964, showed an estimated deficit for 1963-64 of £31,452. Total estimated deficits were £761,484. In addition of course, there are arrears of dividends not included in the foregoing figures.

## BUILDING REGULATIONS

### *Standardisation in Australia*

2. Mr. DAVIES asked the Minister for Works:

- (1) Has any action been taken towards the standardisation of building regulations throughout Australia?
- (2) If so, what is the form of such action and what has been the result?

Mr. WILD replied:

- (1) Yes.
- (2) By conference between the States and the Federal Government a standing committee has been set up to collaborate with the Commonwealth experimental building research station at Ryde, New South Wales, in carrying out research and securing uniformity as far as practicable in the building regulations and by-laws throughout all States.

This move was only arranged on the 12th August last and has not yet had time to achieve any definite result.

## MITCHELL FREEWAY

### *Tabling of Plan*

3. Mr. TONKIN asked the Minister for Works:

When is it expected that detailed designs of the embankment involved in the proposed Mitchell Freeway and interchanges will be completed and tabled in pursuance of the undertaking given by him on Thursday, the 6th August last?

Mr. WILD replied:

Work is continuing on the detailed designs, and it is not known as yet when finality will be reached.

## FREMANTLE RAILWAY BRIDGE

### *Double Standard Gauge Tracks: Degree of Clearance*

4. Mr. TONKIN asked the Minister for Railways:

- (1) With reference to the question answered by him on the 16th September, regarding the new railway bridge at North Fremantle and the use, simultaneously, by trains, of the two sets of standard gauge tracks, what will be the extent of the clearance (exclusive of any calculated allowance for lateral movement) between the trains when in juxtaposition at the point of minimum clearance on the bridge or its approaches?
- (2) What deductions from the clearance distance will need to be made to provide for possible lateral movement of trains when calculating the margin of safety existing when the trains are passing each other?
- (3) Has expression of complaint or doubt about the safety of trains simultaneously using the standard gauge tracks on the bridge or its approaches been made to the Railways Department on the grounds that insufficient clearance has been provided for?
- (4) If "Yes," are there any grounds for alarm?

Mr. COURT replied:

- (1) 3 ft 6 in.
- (2) 6 in. maximum.
- (3) No.
- (4) Answered by (3).

## EGGS

### *Production and Handling*

5. Mr. KELLY asked the Minister for Agriculture:

- (1) Does he agree that acute over-production of eggs in Western Australia could bring about a disaster within the egg industry?

- (2) Is there any cause for concern with this possibility in the current production rate?
- (3) How many dozen eggs have been handled by the W.A. Egg Marketing Board in the years 1960 to 1964 inclusive?
- (4) What number of dozens were produced in the same period, but were not handled by the W.A. Egg Marketing Board?
- (5) What number of producers came under the jurisdiction of the W.A. Egg Marketing Board in the years 1960 to 1964 inclusive?

Mr. NALDER replied:

- (1) No. Acute over-production of eggs in Western Australia is unlikely as producers will quickly adjust their production to market changes.
- (2) No. The current production rate is falling.
- (3) 1960-61 .... 6,123,459  
1961-62 .... 6,414,723  
1962-63 .... 6,596,903  
1963-64 .... 7,142,045.
- (4) 1960-61 .... 1,331,154  
1961-62 .... 1,277,430  
1962-63 .... 1,199,445  
1963-64 .... 1,190,502.
- (5) 1960 .... 1,133  
1961 .... 1,125  
1962 .... 1,099  
1963 .... 1,034  
1964 .... 1,095.

### PRAWN CULTURE INDUSTRY

#### *Establishment in Western Australia*

6. Mr. KELLY asked the Minister for Fisheries:
  - (1) What advance has been made with a view to establishing a prawn culture industry in Western Australia?
  - (2) What areas are most favoured for trials in this regard?

Mr. ROSS HUTCHINSON replied:

- (1) During the course of a visit of inspection made to a prawn culture farm in Japan in May of this year I made some tentative inquiries as to the possibility of introducing culturing procedures to this State. No decision has yet been taken in regard to the matter.
- (2) Considerably more information than is at present available is needed before deciding whether it is possible to commence culturing procedures or determine which is the most suitable area.

### CRAYFISH

#### *Undersized and in Berry: Prosecutions for Catching, and Fines Imposed*

7. Mr. KELLY asked the Minister for Fisheries:
  - (1) How many fishermen have been prosecuted for the taking of undersized crayfish during the years 1960 to 1964 inclusive—
    - (a) Fremantle;
    - (b) Geraldton;
    - (c) other areas?
  - (2) In the same years and areas, what number were prosecuted for taking crayfish in berry?
  - (3) What number of undersized crayfish were involved in the same bracket of years?
  - (4) How many crayfish in berry were the subject of prosecution during the years 1960 to 1964 inclusive?
  - (5) What was the total value in fines imposed in 1960 to 1964—
    - (a) undersized crayfish;
    - (b) crayfish in berry?

Mr. ROSS HUTCHINSON replied:

- (1), (2), and (5)—

#### Convictions Recorded

#### Fines Imposed

Year	Undersize Crayfish			Crayfish in Berry or "Brushed"			Fines Imposed	
	Fremantle	Geraldton	Elsewhere	Fremantle	Geraldton	Elsewhere	Undersize Crayfish	Crayfish in Berry or "Brushed"
1960 ....	55	26	53	3	....	1	£ 779	£ 33
1961 ....	82	30	37	2	....	....	1,993	50
1962 ....	86	38	27	2	....	....	4,710	42
1963 ....	74	31	42	2	....	....	3,189	50
1964*....	107	48	92	19	....	....	6,053	525

\* To September 30th.

- (3) and (4) To obtain information of this nature would necessitate searching through the personal file of every person against whom a conviction has been recorded. This would involve an immense

amount of labour, and in the circumstances the details sought by the honourable member cannot be furnished.

8. and 9. *These questions were postponed.*

**SUPERPHOSPHATE PRODUCTION***Price Paid for Imported Sulphur*

10. Mr. MOIR asked the Minister for Agriculture:

In reply to question 13 asked by me on the 13th October, advertising to the price paid by fertiliser manufacturers for imported sulphur, he stated that "this information is confidential to the Government." Will he indicate what dire consequences could occur if this information is revealed to the House?

Mr. NALDER replied:

The honourable member would realise that to make public information provided confidentially for a specific purpose would be a serious breach of trust.

**RAILWAY PASSES***Free Issue to Widows of Former Employees*

11. Mr. MOIR asked the Minister for Railways:

Will he examine the provisions for entitlement of railway employees' widows to free rail passes with a view to liberalising the present entitlement of one destination pass per year where the husband has served 10 years and is over 60 years of age at death or under 60 years and has served 30 years?

Mr. COURT replied:

I will discuss the matter with the commissioner, but from my examination of the position it would appear that the present provision of one pass per annum for use by widows of deceased railway employees granted from the 1st July, 1958, is reasonable.

**BRIDGE OVER RIVER AT PICTON JUNCTION***Removal*

12. Mr. WILLIAMS asked the Minister for Works:

- (1) Is he aware of the dangerous condition of what remains of the old bridge over the Preston River at Picton Junction, and does he consider it dangerous to the levee banks downstream, in the event of future high flow levels?
- (2) Would he give immediate consideration to the removal of this structure?

Mr. WILD replied:

- (1) and (2) The old road bridge over the Preston River was severely damaged during winter floods, and the Main Roads Department proposes to remove it during the coming summer.

**SOUTH BUNBURY SCHOOL***Additional Classrooms: Tenders and Completion Date*

13. Mr. WILLIAMS asked the Minister for Education:

- (1) When will tenders be called for the additional four classrooms at South Bunbury School?
- (2) What will be the proposed completion date?

Mr. LEWIS replied:

- (1) Tenders closed on the 9th October, 1964.
- (2) Fourteen weeks from date of acceptance.

**BUNBURY HARBOUR MASTER'S OFFICE***Tenders, Site, and Date of Completion*

14. Mr. WILLIAMS asked the Minister for Works:

- (1) When will tenders be called for the Bunbury Harbour Master's office?
- (2) On what site is the building to be erected?
- (3) What is the likely date for the building's completion?

Mr. WILD replied:

- (1) Tenders will be called in approximately four weeks.
- (2) Harbour Board works site, off the end of Henry Street and to the left facing the harbour.
- (3) Middle of 1965.

**ROAD RESURFACING***Time Lapse between Prime Coating and Sealing*

15. Mr. WILLIAMS asked the Minister for Works:

- (1) When a road is being resurfaced, what is the usual time lapse between prime coating and sealing?
- (2) Why is it necessary to have a time lapse?

*"Slippery When Wet" Signs*

- (3) What is the required distance for "Slippery When Wet" signs to be placed on approach to a section of prime coated road in—
  - (a) the metropolitan area;
  - (b) open country road?

- (4) Is he aware that at several points on the South-Western Highway the signs mentioned in (3) are approximately 50 yards from the affected surface, thus giving a driver travelling at—

50 m.p.h. approximately two seconds' warning?

60 m.p.h. approximately 1½ second's warning?

- (5) Does he consider this is sufficient warning, and if not, will he have the matter investigated and rectified?
- (6) Would he give consideration to having the signs increased in size and the lettering altered to read "Danger: Slippery When Wet"?

Mr. WILD replied:

- (1) This varies according to circumstances and is generally six to 12 months.
- (2) Principally for climatic reasons: waterbinding and priming is generally carried out during autumn and spring when water is available for waterbinding; sealing must be carried out in conditions of dry and hot weather—i.e., during the summer months.
- (3) (a) 100 ft.  
(b) 300 ft. (minimum).
- (4) Yes. However, the sign can be read at a distance of at least 200-300 ft. Therefore, in circumstances where a sign is 150 ft. from the primed surface, the driver has a warning distance of at least 350 ft. before he reaches it.
- (5) The location of the signs will be checked and if necessary they will be repositioned.
- (6) No. The signs are designed in accordance with the Standards Association Road Signs Code which has been adopted by all State road authorities in Australia.

### SEWERAGE

#### *Extension to W. O. Johnston & Sons' Bellevue Factory*

16. Mr. JAMIESON asked the Minister for Works:

- (1) When was the sewerage main extended to W. O. Johnston & Sons' factory at Bellevue?
- (2) Had the extension been previously rejected on economic grounds?
- (3) If so, what was the date of this rejection?
- (4) What was the total cost of this extension?
- (5) What has been the annual financial return from this extension since the beginning of its use?

- (6) What is the usual annual financial return from sewerage extensions costing a similar amount?

Mr. WILD replied:

- (1) September 1959.
- (2) No.
- (3) Answered by (2).
- (4) £1,476 4s. 6d.
- (5) £36 4s. 6d. for 1959-60 (part year). £136 10s. for each year 1960-61; 1961-62; 1962-63; 1963-64.
- (6) Financial returns from sewerage extensions vary considerably, but an annual return by way of rates (upon completion of buildings) amounting to 6 per cent. of the estimated cost of the extension is considered adequate.

### BRIDGE HOTEL, FREMANTLE

#### *Resumption, and Recoup to Licensee*

17. Mr. FLETCHER asked the Minister for Works:

- (1) Has the Government yet acquired by resumption the area at present occupied by the Bridge Hotel, Fremantle?
- (2) If not, what is the anticipated date of resumption?
- (3) Since the present licensee paid approximately £7,000 ingoing some four years ago, will he endeavour to ensure that the licensee is granted a license to trade up to the date of resumption, so that the said licensee is given every opportunity to recoup in part financial losses involved?

Mr. WILD replied:

- (1) and (2) Purchase of the Bridge Hotel, Fremantle, has been negotiated with the Swan Brewery and it is anticipated that transfer to the Crown will be completed within one month.
- (3) No, but hotel trading may continue until the expiry of the current license on the 31st December next.

18. and 19. *These questions were postponed.*

### STATE SHIPPING SERVICE

#### *Lengthening of M.V. "Koolama"*

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

- (1) Has the Government made a decision on the proposal to lengthen M.V. *Koolama*?
- (2) If so, when will work commence on this job?
- (3) If not, when will a decision be made?

Mr. COURT replied:

- (1) Yes, subject to satisfactory tenders being received.

- (2) It would be expected to start in March next year.
- (3) A final decision is expected to be made within the next four weeks.

## QUESTIONS WITHOUT NOTICE

### COURTHOUSE, POLICE STATION, AND QUARTERS AT QUAIRADING

#### *Planning*

1. Mr. GAYFER asked the Minister representing the Minister for Justice:

When is it anticipated planning will commence for the proposed new courthouse, police station, and quarters at Quairading?

Mr. COURT replied:

Preliminary discussions regarding plans took place yesterday between the architect, the Under-Secretary for Law, and the Acting Commissioner of Police. As further progress is made the honourable member can be advised.

### WHIM CREEK COPPER

#### *Replies to Questions: Availability*

2. Mr. BICKERTON asked the Minister representing the Minister for Mines:

Can he advise me when I can expect an answer to questions I asked over a week ago concerning the Whim Creek copper mine? The answer at the time was that certain information had to be obtained from the companies concerned. As the series of questions, which comprised about 23, contained about 19 which to my reckoning were answerable by the Mines Department; and if the information from the company is held up in any way, could I have the answers which the department is able to supply to that question?

Mr. BOVELL replied:

I am quite sure the Minister for Mines will let the information become available when he is in possession of it.

## BILLS (4): INTRODUCTION AND FIRST READING

1. Poisons Bill.
2. Pharmacy Bill.
3. Police Act Amendment Bill (No. 2).  
Bills introduced, on motions by Mr. Ross Hutchinson (Minister for Health), and read a first time.
4. Friendly Societies Act Amendment Bill.

Bill introduced, on motion by Mr. Ross Hutchinson (Chief Secretary), and read a first time.

## LONG SERVICE LEAVE ACT AMENDMENT BILL (No. 2)

### *Third Reading*

Bill read a third time, on motion by Mr. Wild (Minister for Labour), and transmitted to the Council.

## WORKERS' COMPENSATION ACT AMENDMENT BILL

### *Second Reading*

MR. WILD (Dale—Minister for Labour) [2.37 p.m.]: I move—

That the Bill be now read a second time.

In a consideration of workers' compensation the views of three groups have to be studied—the employers, the employees, and the public generally—together with the effect as far as it concerns the economy of the State. As a result, every effort has been made in this Bill to meet the wishes of all concerned.

It is not intended to go into the clauses of the Bill in detail at this juncture, as honourable members will have ample time to consider these when the Bill reaches the Committee stage, but only to outline the major changes which it is sought to effect by these amendments to the present Workers' Compensation Act.

This Bill in the main embraces three major headings: A "journey" clause; increases of various forms of compensation payments; and introduction of the recommendations of the committee which inquired last year into pneumoconiosis. In all Australian States, workers, while travelling to and from work, are covered to some degree by workers' compensation, and it has now been decided to bring Western Australia into line with those States. The degree of coverage given to workers while so travelling varies considerably from State to State, from quite restricted coverage in South Australia to a much wider coverage in New South Wales.

In drawing up the amending clauses, it became necessary to be mindful of two things—how to have the worker covered by insurance while he is travelling to and from work; and, at the same time, how best to avoid throwing the responsibility for the worker's safety on to the employer if the worker, while travelling to or from work, breaks his journey to do something which is not connected with his employment.

Regard had to be paid to the fact that should an employee be injured while travelling to or from work, he still had the right of action in law against the person responsible for the accident. Many workers might be afraid to take advantage of such rights for fear of losing their rights under workers' compensation, but these are already protected under the existing Act.

If a worker takes legal action and fails to obtain damages, receives less than he would have obtained under workers' compensation, or receives damages in full but is unable to collect them, then he will still be covered by workers' compensation, and will be able to claim through workers' compensation such sum as is required to bring his assessed compensation up to the amount as laid down in the Act. It is hoped that the House will agree that these are very fair provisions and, as said earlier, every effort has been made to protect all of the interested groups.

Secondly, this Bill deals with compensation payments. Very careful consideration has been given to this matter, and the figures of all other States of the Commonwealth have been closely studied. As most honourable members no doubt realise, there are considerable variations in workers' compensation payments between the States, and an endeavour has been made to provide for balanced compensation payments in Western Australia which, while not as high as in some, are above the average for all States.

The new figures which, if this Bill is passed, will become operative are as follows:—

For death—

With dependants—£3,500, plus £100 per dependent child.

Without dependants—£150.

For total permanent incapacity—£3,500.

With regard to medical and hospital benefits for an injured worker, it is intended to raise the present payments for medical expenses to £250, and for hospital expenses to £425. Naturally these increased payments will necessitate recalculation of the amounts of compensation at present set out in the second schedule to the Act to bring those payments into line with the new scale for total incapacity which has already been mentioned.

It will be realised that these higher payments will have the effect of increasing the premiums for workers' compensation, and it is hoped that it is within the capacity of industry to bear them without too big an impact.

Thirdly, the Bill deals with the rights of workers stricken with pneumoconiosis. As honourable members will no doubt recall, a committee was set up to consider this matter, and the whole subject was most thoroughly considered by this body. Subsequently a report was submitted to the Government, and this section of the Bill seeks to implement seven of the nine recommendations made in the report. Here again it is not intended to go into the proposed amendments in detail, and it should be sufficient if an outline is given of the main provisions.

It is intended that the retrospectivity clause be abolished. Honourable members will no doubt recall that under the present Act, where a worker wishes to claim compensation for any of the diseases listed in the third schedule, it is necessary for him to prove that the disease was caused by the occupation in which he had been engaged during the previous three years. In the case of pneumoconiosis this limiting period will no longer apply.

Mr. Evans: Hear, hear!

Mr. WILD: Further, respiratory diseases other than silicosis, but which occur in conjunction with silicosis, will be treated as being silicosis.

Again, where a worker suffers from both tuberculosis, and either silicosis or asbestosis, he will be considered to be totally incapacitated until either the tuberculosis ceases to be active, or until he returns to work, whichever is the sooner. If this amendment is accepted, it will be necessary for an amendment to be made to the Mine Workers' Relief Act, which at the moment covers this type of incapacity.

It is also intended to set up a medical board to consider the condition of a worker who claims he is suffering from pneumoconiosis. This board will consist of the Mines Medical Officer for the time being at Kalgoorlie; the Physician Occupational Health, or his deputy; and a chest physician nominated by the Commissioner of Public Health.

In accordance with the recommendations of the committee, the third schedule will be amended to delete the word "silicosis" and other similar terms, and to give "pneumoconiosis" a much wider meaning within the terms of the Act; and also to give a wider scope to the type of industry in which this disease shall be considered to occur.

As was indicated in my introductory remarks, it has been necessary to consider both the rights and the responsibilities of the various sectors of the community which will be affected by the alterations that are before the House.

This Bill should give to workers a greatly increased feeling of security, not only because benefits have been increased—and therefore the danger of their being faced with medical bills which they cannot pay will now be abolished—but also because their dependants, should the worker be so unfortunate as to be killed, will now be better provided for.

Workers will be further relieved of responsibility for medical and hospital costs for an injury they may receive when travelling to and from work, provided that they are travelling directly to and from work. In addition, people engaged in mining operations and similar work will be given a greater sense of security from the benefits which have been outlined.

It is felt certain that when honourable members have had time to study the Bill they will agree that it is a well-balanced series of improvements to the present Act.

Mr. Evans: Six years too late!

Debate adjourned, on motion by Mr. W. Hegney.

## ELECTORAL ACT AMENDMENT BILL

### *Second Reading*

Debate resumed, from the 13th October, on the following motion by Mr. Court (Minister for Industrial Development):—

That the Bill be now read a second time.

**MR. JAMIESON** (Beeloo) [2.47 p.m.]: As the Minister indicated when introducing the Bill, most of the provisions of the measure are to prevent a degree of duplication in regard to question asking, form filling-in, etc., when any conjoint elections are held in the future in this State. However, it is unfortunate that, in view of the tremendous amount of work that has been put into the Bill, no action has been taken to instruct Electoral Department officers regarding what shall take place at conjoint elections with the issuing of postal vote forms and so on when only one declaration is required.

It is strange that no action has been taken to make sure that conjoint elections occur, and it could be that all this involved work in the redrafting of the section of the Act in question will be for one election only. It will be used only in 1965, and there is no guarantee that the provision will be used even then. Because of this I think the Government has fallen far short of the indication given to this House, and indeed to Parliament last year by inference, if not by direct statement, that it was intended that all future elections for the Legislative Council and the Legislative Assembly would be held conjointly and at three-yearly periods.

If that was not the case, why was it necessary to alter the Legislative Council election period from biennial to triennial? It is true that instead of having 10 provinces with three representatives each, with one retiring every two years, the Legislative Council in the future will have 15 provinces, with two representatives each; but that alteration did not necessitate the other alterations that were made, unless it was felt that conjoint elections should be held. Other provisions could have been made in that regard; and, as the Minister probably knows, in other States members do not necessarily retire from the Legislative Council every year; various members retire.

Therefore I think the proposals introduced by the Government last year were a clear indication that it was an endeavour

on the part of the Government to cut down on the number of elections to which the people of this State have been subjected in the past. If conjoint elections were held each time the Parliament of this State required new members by virtue of the provisions of the Constitution Act, over a period of six years instead of having five elections there would be only two, and it would be a saving and a help to the nerves of those who are in command of the State, and indeed to members of Parliament themselves. It would also give far more time in which to think about things; because previously over a period of six years we had three biennial Legislative Council elections and two general elections for the Legislative Assembly.

Therefore, if we are to overcome any problem at all, it is surely the problem of confusion that takes place at the poll in a number of elections. For instance, I would hate things to get to the position that obtained in Tasmania earlier this year when on one Saturday the Legislative Assembly elections were held, and on the following Saturday the elections for the Legislative Council were held. People were thoroughly confused as a result.

One can imagine their reaction when they knew that they had already voted the previous Saturday, and were expected to vote again. Honourable members can appreciate the difficulty in trying to get people to vote under these circumstances. The result was that there was only an 80 per cent. vote, because the electors knew they had already voted the previous week. Let us try to imagine the difficulty of getting Liberal Party or Labor Party electors to the poll when they knew they had voted the previous week. Their reaction would be, "We voted last week; why should we vote again this week?"

So it becomes absurd if these elections are not tied the one to the other. In South Australia that has been the practice for a number of years, and it seems to have worked well from the point of view of the Liberal Government there, because it has been maintained in office for a number of years. So conjoint elections have been very successful in South Australia. When they vote they do the lot.

It is a great pity we cannot get some alignment on this and follow what they do in America where all elections are held on the same day, whether they be municipal, State, or Federal elections. If there is one thing that irks the people it is a series of elections. In our State we have the Federal elections in November, the State elections in March, and the municipal elections in May. Apart from that, possibly earlier in May, there is a Legislative Council election. By that time the people are so fed up with their democratic rights that they feel they are being pushed down their throats, particularly by the

radio and TV announcers, together with the pamphleteering and advertisements in the Press from day to day.

It would be a good move to overcome that position. But, as I indicated earlier, there is no move on the part of the Government to make sure conjoint elections do occur, and I think we could be wasting the time of this Parliament by taking the action we are; because if there were a guaranteed way—and the only guaranteed way would be by further amendment of the Constitution Act—that would mean that the senior section of the Legislative Council could retire, after which the other 50 per cent. of the Council would have three years to run.

That would be a fair and proper way to run the affairs of the State, particularly if we are to retain the bicameral system. Unless that were done we would not achieve very much by indulging in this exercise of altering the Act for something that may or may not take place. We all know that in 1956 certain duplication took place and the elections were held conjointly then. The Electoral Department was not faced with very large problems except that it might have had to make certain arrangements, and there was also the fact that two declarations were necessary for the Legislative Assembly in the question of absentee votes which were required by some sick persons; or in other cases where declaration is made under section 122 in respect of electors being inadvertently left off the roll, and where they felt they could claim a vote. In those cases, of course, they have to fill in two documents, and there is a certain amount of time taken up at the poll in dealing with them.

So to that extent it is a very great improvement, and it will be of untold advantage to the people charged with the running of elections. Those who are employed as poll clerks might not be so happy; because, although they might be required in each of the three-year periods to conduct elections, they will not be required quite as often as they have been in the past, and that might mean financial loss to them from time to time.

The Minister referred to a section which was changed in another place and which now brings into line all the sections of the State in regard to the time lag between the issue of a writ and the holding of an election. This seems a very desirable feature, particularly in this day and age when we can go from here to Wyndham by plane in a day. It seems ludicrous therefore that we should make a special provision where a minimum period must apply in a particular election area as against another.

It is as well that the proviso regarding the North Province has been deleted because it would be hard for people to interpret if there were to be a by-election in the Lower North as to whether it had to stand for five weeks or three weeks; because I defy any Queen's Counsel or any legal luminary to say clearly what would take place in those circumstances. So the removing of the provision affecting the old North Province area has cleaned that aspect up and has placed the Electoral Act in a more satisfactory condition.

The provision to allow members and their wives to be enrolled, as is the case with the Legislative Assembly members and their wives, is a good one; and of course it was not in the Act previously when, besides other qualifications, a property qualification was necessary before people could be enfranchised for the Legislative Council. So it does clean up the position which has become quite anomalous by the passing of other Acts of Parliament, and by the amendment of the Constitution Act last year.

The other item to which I wish to refer particularly is the amendment to section 17. As I indicated, most of the Bill meets with the approval of members of the Opposition, and the only one that we can perhaps take to task is the amendment to section 17. This is to be repealed and re-enacted. The Minister is quite well aware that I have amendments on the notice paper to try to clean up the position with regard to the wording of this section. It specifies the qualifications of electors and many other qualifications, and states, "has lived in the State for six months continuously". To blandly say, "has lived in the State for six months continuously" is rather silly, because the first six months of a person's life in the State could have been for a continuous period.

Surely it must mean, "has lived in the State six months continuously prior to the application for enrolment". That seems to be fair and reasonable. The Minister may say, as I understand the Minister for Justice has indicated in another place in his argument, that this has been the wording in the Act for a number of years. Maybe it has, but the fact still remains that the wording is incorrect and it does not achieve the objective it surely sets out to achieve. The qualification must either be that a person has resided in this State for six months before he has time to go to the poll, or some other qualification. There is no other qualification except that in paragraph (c), which reads—

- (c) has lived continuously in the district or sub-district for which he claims to be enrolled as an elector, for a period of three months immediately preceding the date of his claim to be so enrolled . . .

That is the only safeguard. In the case of a person coming to this State from South Australia, he should reside here for six months before being entitled to enrol; but, as the Act stands, such a person need only to have lived in the State for six months continuously at some time or other. The only safeguard against such enrolment is the provision in the Act requiring three months' residence in the electorate.

If this particular provision is to be amended, the position should be made much clearer, and the qualifications should be residence for a period of six months immediately prior to the date of the claim. We would be much happier with such a qualification. The provision in section 17 (c) has been a contentious one for some years.

Last year the honourable member for Balcatta introduced an amending Bill, which remained on the notice paper for some nine weeks. It was finally dealt with on the 6th December, which was close to the last day, if not the last day of the session. As a consequence, the honourable member did not pursue the matter to a division, but allowed it to go by after hearing the reply from the Minister on the attitude of the Government. The Minister undertook to examine this proposition in the general review of the other provisions of the Electoral Act, and indicated the Government did not favour a change in the qualification period from three months to one month. The arguments adduced at that time are just as strong today.

The Opposition requires a good answer from the Government on this provision, and it should be borne in mind that both the second and third readings of this Bill require a constitutional majority. This particular section in the Act should be brought into line with that applying in the other States where the requirement is one month's residence. It is true that in Queensland an alteration was made in 1958, and the period of three months was reverted to. The reasons for doing that could be many, in view of the way in which the electoral districts in Queensland are handled. It is different from the electoral redistribution that takes place in Western Australia.

Although the redistributions may prove to favour one party or the other, I am happy to say that over the years there has been no calamity crying over the redistributions. They are quite happy with the position over there, and the commissioners appointed under the Federal Act have proved to be an independent body. They go into the redistributions, as laid down by their Act, and adjust the boundaries. Objections can be lodged, but the commissioners have the final say after having heard the objections.

In the main the parties have been fairly satisfied. Objections have been raised, as in the case of the recent meeting of the commissioners, when new Legislative Council provinces were fixed. Finally, when the commissioners, after hearing the objections, decided to adhere to the original boundaries as laid down, there was no general complaint by the objectors—be they Country Party, Liberal, or Labor members.

Although the Labor Party came out of the redistribution a little worse off than it would have done under the old boundaries if adult franchise had been in vogue, there was no great outcry. Labor held seats in five provinces, and it was felt that with the effluxion of time and with adult franchise, having seats in five out of the 10 provinces, meant having 15 Labor members in the other Chamber. That position has now passed, and it is only of academic interest.

On the other hand, under the existing boundaries Labor would possibly have a chance of obtaining representation in seven provinces, and that would give us 14 in all. We would have to rely on the development of the State for any other provinces to favour Labor. As against holding 50 per cent. of the representation previously, we are now down to below 50 per cent. We are not crying about this, because a principle has been established, and the commissioners should be allowed to do their job and declare provinces which, in time, could be in our favour.

Getting back to the objection to the three months' residential qualification I draw the attention of the Minister to the fact that in the Electoral Act of Western Australia there is provision in section 31 whereby arrangements can be made with the Commonwealth Government for the preparation, alteration, or revision of the Assembly rolls. Before we can make use of section 31 it is vital for us to bring the residential qualification in this State into line with that of the Commonwealth, because all other qualifications are in line with those of the Commonwealth in regard to period of residence.

If the residential qualification in this State can be brought into line with that of the Commonwealth then we can make arrangements with that Government to prepare one habitation roll. It is true the boundaries might not conform with each other; but in many of the other States they also do not conform. In Victoria there is the system of two for one; while in Tasmania the electoral provinces are based entirely on the Commonwealth boundaries, and they get over the problem by using the system of proportional representation. There is no worry in that respect in Western Australia. In Victoria there is a system of one area and one collation centre and the boundaries of the

Legislative Council provinces do not conform with those of the Legislative Assembly. As a consequence regard should only be paid to the unification of habitation rolls, rather than rolls based on boundaries.

Such a system would not matter very much to the results of voting, but it matters a great deal to the amount of work, including clerical work, which is forced upon both the Commonwealth and the State authorities, in that at present the work is duplicated under the existing provision in our Act. It is the money of the ratepayers which is being used, whether it be for the preparation of Commonwealth or State rolls, and every attempt should be made to overcome the duplication of rolls.

In addition, the Government Printing Office in this State prepares the Commonwealth rolls, and it must retain the metal linotype to enable the rolls to be printed. Anyone familiar with the procedure will realise that the Government Printing Office must reserve a considerable portion of floor space to store the linotype, so that it can be readily available for printing the rolls. If the rolls could be narrowed down to half in number there would certainly be an advantage, and an economy would be effected. Although the Commonwealth pays reasonable charges for the printing of rolls by the Government Printing Office in Western Australia, it does not provide the storage space for the linotype required for the making up of the rolls. We would be able to overcome many problems associated with the present method of preparing rolls if we could reach agreement with the Commonwealth.

I see no particular objection to a further degree of uniformity. It is true the provision has been retained to prevent roll stuffing; but the days of rollstuffing have just about gone.

Abstract references were made by Sir Norbert Keenan when he was a member of this Chamber to the fact that it had been clearly indicated in 1948, when the matter was placed in the Electoral Act by the then Attorney-General, Mr. Val Abbott, that there had not been such stuffing, and if there had been, it had been a sort of sour-grapes accusation after an election had been won or lost in some particular area.

I did hear that it took place around the Greenough area with the road workers. However, because of the plant and machinery which is used today, road workers are moving on all the time. It is most unlikely that they would be in one particular area for one month, let alone three months, to entitle them to go on the roll. However, as we all know, about 20 years ago extensive public works gangs would remain in one spot for quite a while and,

from a Labor point of view—let us give the hard, cold facts—this could have been done when an election was very close.

Mr. Oldfield: Many districts only had about 500 electors.

Mr. JAMIESON: Yes. Because of the formula which is followed at the moment, stuffing is prevented. However, if there are about 400 or 500 people and another 50 can be added to that number, this could act to the detriment of someone who could possibly have been the rightful representative for the district. But, as I have said, that could not occur these days. The days when the road gangs were in the one spot for months and months have long since passed because of the improved plant and machinery now used. Therefore there is little justification for retaining that particular provision.

Getting back to section 31, I feel it was included for a purpose and that was to ultimately overcome the problem of having a different qualification period and then being able to negotiate with the Commonwealth for one particular authority to handle all electoral claim cards, etc. However, there is another aspect associated with this, particularly in regard to the Legislative Council qualifications where, it will be remembered, previously a person's qualifications upon acquiring qualification—if I might put it that way—were immediate.

In other words, if I went to Nedlands and bought a block of land today, my name could immediately be placed on the Legislative Council roll for that area. There was no delay at all in that respect. Under the amendment, however, a three months' delay must occur in the enrolment for the Legislative Council franchise, and that did not apply before. Therefore to that degree it is a somewhat retrograde step and should not, at this juncture, be tolerated.

I do not think that a person's name should be placed on the roll immediately. I agree that people, in their own interests, should be given a little while to settle down and look around to see where they live before they are placed on the roll. But I do think that three months is going too far. Indeed, anyone who has canvassed, particularly in new areas, will know that the task is most difficult. The Electoral Department itself will send out a canvasser who will take cards. Then when another canvasser goes out he will have a lot of trouble convincing the locals that they have not already filled in an electoral card for the roll.

Honourable members will know that it becomes very difficult when we go to a home because we know the occupants have just moved in and we know that there is an election coming off. We speak to them about having their name placed on the roll. Then if, because of pressure of work

and the hurly-burly of other matters, we forget to go back in two months, we are considered to be the world's worst because those whom we have interviewed are sure that we placed their name on the roll. They say that they remember we visited them.

However, they do not remember what roll was under discussion, and it is difficult to explain that there is a Federal roll and a State roll. They are still not clear. All they know is that they have received a letter from the department requiring to know why they have not enrolled or voted, or something like that. The more simple we can make it for the electors, the better will be the situation.

People have a natural objection to filling in cards and forms in all walks of life. If we go to take advantage of some particular service and a paper is thrust in front of us to fill in, the general reaction is that there is too much paper work involved. For that reason alone we should try to get over this problem.

I have said just about all I want to say on this matter. The main point is, of course, that this Bill is tidying up the Electoral Act in accordance with the desires of Parliament expressed last year. However, the Act needs further tidying up in respect of clause 17. When this clause is dealt with in Committee we will have further to say on it.

However, this Bill does endeavour to reduce the number of elections in this State from five every six years to two every six years, and for that reason alone it will achieve something. However, I do feel that eventually some Government will have to take action to ensure that the conjoint elections are held when required every three years, and the only way to do so is to implement the suggestion I made that the senior half of the Legislative Council would have to fall any time the Government in the Legislative Assembly fell. That would not present a problem really because the last Government which fell was in 1904, or at least it was the last Parliament which did not run its three years. That was the Daglish Government. Since then a great deal of stability has existed and the elections have occurred every three years except during the war period.

I will be happy to support the second reading of this Bill, but hope the Minister will give serious consideration to the points I have made.

**MR. COURT** (Nedlands—Minister for Industrial Development) [3.18 p.m.]: I thank the honourable member for his contribution to the debate on this Bill, which is an important one as it affects the electoral provisions of this State.

The position as I see it, having listened to the honourable member's remarks, is that he has supported the Bill with some reservations, one being in connection with

conjoint elections; another being in respect of some provisions in section 17; and another being in respect of common habitation rolls with the Commonwealth.

As far as the question of conjoint elections is concerned, the legislation does provide the machinery for cases where there are conjoint elections, and the Government feels that at this point of time that is as far as it can go. With experience under this electoral machinery, it will be possible to see the effect; and no doubt, from time to time, governments will bring forward amendments in the light of experience, because anything concerning the Electoral Act is a matter of concern to members of all political parties as well as to the general public. I have never known honourable members to be reticent in submitting anomalies, regardless of which political party they support.

**Mr. Tonkin:** They don't get very far sometimes.

**Mr. COURT:** I am surprised to hear the Deputy Leader of the Opposition say that, because there has been quite a revolutionary change in electoral procedure and franchise in the life of this Government. It probably is the most far-reaching advance ever made in the life of one Parliament, and in two sessions of a Parliament. Many of these things have been strongly advocated by the honourable member himself, and they are now being achieved.

So far as the amendment which the honourable member for Beeloo foreshadowed is concerned, it is sufficient to leave it until we get to the clause that will be affected. I consider there are strong arguments against the amendment; but rather than delay the second reading I think it best to leave it until we deal with the particular clause.

As far as the Commonwealth habitation roll is concerned, and an equal roll with the State, whilst this might be desirable, I do not think we should let the Commonwealth procedure be the guiding factor in all we do. There are certain conditions in Western Australia at this stage of our development which might cause us to be a little different in this matter in the interests of the electors themselves. The Government does not support this move at the present juncture, because it would involve a change in the residential qualification, and at the moment we do not agree to that. I thank the honourable member for his support of the second reading.

**The SPEAKER** (Mr. Hearman): Before putting the question, I point out that this Bill will require a constitutional majority. I will put the question in the normal way, and if I hear a dissentient voice I will have to ring the bells for a division. If there is no dissentient voice I will satisfy myself that there are 26 people present in this House.

**Question put.**

The **SPEAKER** (Mr. Hearman): I declare the question carried by a constitutional majority.

Question thus passed.

Bill read a second time.

*In Committee, etc.*

The Chairman of Committees (Mr. I. W. Manning) in the Chair; Mr. Court (Minister for Industrial Development) in charge of the Bill.

Clauses 1 to 5 put and passed.

Clause 6: Section 17 repealed and re-enacted.

Mr. **JAMIESON**: I have placed an amendment on the notice paper which is self-explanatory. I think I made my point earlier: that it is ridiculous that a person could have lived in this State for the first six months of his life, or for any six months for that matter, and then leave the State, and then come back and use that period as a qualification for a claim to be enrolled. If we provide that a person is qualified by having resided here for six months immediately preceding the date of his claim to be enrolled, I think that provision will achieve what is intended, and the position will not be left completely in the air as it is at present. I move an amendment—

Page 3, lines 28 and 29—Delete the words "six months continuously" and substitute the words "a period of six months immediately preceding the date of his claim to be so enrolled."

Mr. **COURT**: I oppose the amendment. I can appreciate the arguments advanced by the honourable member, but I think there are counter arguments equally important if not more important, and the Government prefers to have the Bill in the form in which it was introduced.

Mr. **Tonkin**: Are we going to hear these counter arguments?

Mr. **COURT**: Just give me a chance to say a few words.

Mr. **Tonkin**: It looked as if we were not, that is all.

Mr. **COURT**: You are usually complaining about my saying too much, rather than too little.

Mr. **Tonkin**: I don't think I have ever done so.

Mr. **COURT**: This matter was raised in the other place. When the Leader of the Opposition there moved a similar amendment, the Minister for Justice replied and put forward a case which was rather near to home, and which I think was rather pertinent. It could be a typical instance of what could apply if the amendment were adopted.

It must be borne in mind that some people could leave this State after a long period of residence here, and work in another State, and then return to Western Australia and become citizens here. Under the amendment they would have to wait

six full months before they could qualify. I think that is the intention of the amendment. In other words, the previous period of residence would not count as part of the six months.

It might appear ridiculous if somebody in his tender years had a qualifying period of residence and then went away and returned years later. It might appear unfair that that residential qualification should count, but I think that in the case of the Leader of the Opposition in the other place previous residential qualification did arise. I am not sure of the full details, but I know that after he had a long period of residence here he spent several years as Administrator of the Northern Territory. He returned to this State and not long afterwards stood for the Legislative Council. Under this amendment he would have had to wait a full six months before being eligible to stand for that election. Surely that would have been unfair! The Leader of the Opposition in another place is a man who had spent most of his life in this State; he had worked and lived here and had been a member of Parliament as well as Premier of the State. If we take the amendment literally, that situation could arise.

That is one case that we probably understand because we know the person concerned, but this could happen in many instances. People could live here for a long period and then go away and later return to take up residence in Western Australia. If they qualify in every other way, I do not see why we should debar them from qualifying immediately.

There could be instances where, I suppose, it could look a little ridiculous when there was a tremendous gap from tender years to advanced age. But, taking it on balance, I think there are more things in favour of accepting the provision in the Bill rather than the amendment.

Mr. **JAMIESON**: The Minister has not indicated how he gets over the problem of the Electoral Department knowing the position when a person has left this State at the age of one year, after having lived here for the first year of his life, and then on returning from overseas being entitled to enrolment straightaway, or after the three months' residential qualification. He has not indicated how the department finds that out. Surely it would not have the residential period clearly stated.

How would the department know that a person had gone away for some time and then returned to the State? The officers of the Electoral Department would almost have to be clairvoyant to ascertain that. As to referring to the particular case of The Hon. F. J. S. Wise who was placed in the circumstances outlined by the Minister, I might point out that, had his opponent in the selection ballot been successful, a ludicrous position would have prevailed in that because he had lived six months in

this State during his life and had property qualifications, but was living in the Northern Territory at the time, he was still entitled to sit as a member in another place. If we reverted to the old qualifications we would have that ludicrous position.

This person, in fact, was a station manager on a station, half of which was situated in the Northern Territory and half in Western Australia, with his residence in the Northern Territory. However, he would have been perfectly entitled to occupy a seat in the Legislative Council under the old qualification without being a resident in Western Australia. Therefore the position would be ludicrous.

The main problem arises when a person goes to India or Canada and returns to this State. How is the Electoral Department to know that such a case exists? How is the department to know that a person has lived three months of his childhood in this State? It would be impossible. At least the amendment would clearly indicate to the department where it stood in regard to enrolments if there is to be any qualification at all. I would be quite happy if there were no qualifications except the three months' residential qualification, or the one month, as the case may be, so long as a person was a subject of Her Majesty the Queen. If the provision in the Bill is to be retained, it should be retained with sensible verbiage.

Mr. TONKIN: I support the point of view put up by the honourable member for Beeloo because it is the more sensible one. If this proposal becomes law we would have the situation that a person who comes from another State and who has never been here before must wait six months before becoming entitled to enrolment; whereas a person who is living here and who shifts from one district to another must wait three months before qualifying for enrolment for that district. That is right and proper.

Why should we provide for a person who, in the dim and distant past has lived for six months in Western Australia and who has now returned to this State from South Australia to be enrolled within three months of his arrival? I agree with the honourable member for Beeloo when he says it could not be policed. Honourable members know it is not always easy to get anyone to declare definitely how long he has known an applicant for an old-age pension. The statement generally made is: "I have known him a long time. It is more than 10 years, but I would not swear it is 15 or 20 years, because I do not know."

How is anybody going to swear he lived in the State for six months 20 years ago when it might have been only five months and a fortnight? How is that going to be properly policed? I have lived in various places in this State; but if I were asked to declare how many months I lived in

each place I could not do so and nor could anyone else with certainty. This provision says that a person must have lived in the State continuously for six months. How would anyone know, 20 or 30 years afterwards, whether he had lived here for four, six, or seven months?

But if we insert a provision in the Bill that a person must have lived here six months prior to the application for enrolment, that is easily established, and surely that is the real purpose of the provision; namely, to ensure that a person shall not come from another State and get on the roll for a district as easily as a person who has been living here for some time.

I think the Government should agree to the amendment if only from the point of view of practicability. I do not think anybody could successfully argue that the provision in the Bill could be satisfactorily policed. Therefore the provision would not have any force or effect, and it is really meaningless when one views it in that context. A provision in the law that cannot be policed should not be placed in any Statute.

Mr. O'NEIL: I have here a Legislative Assembly claim card and I notice that a person who is applying for registration as an elector is required to certify to three facts, one of which is—

- (1) I am an inhabitant of Western Australia and have lived therein for six months continuously, and I claim to have my name placed on the electoral roll for the above-mentioned District, in which I now live and have lived for a continuous period of three months immediately preceding the date of this claim.

As I understand it, the provision in this amending Bill is to apply exactly the same qualifications in respect of eligible electors for the Legislative Council. It has been mentioned that if we were to demand that eligible electors serve a period of six months immediately prior to qualifying for enrolment certain people would be debarred. Let us assume the Agent-General in London, who has served his State for a long period—firstly as a Minister in the State of Western Australia and then as Agent-General in London for many years—returned here prior to a period of six months before an election. He would be eligible neither for enrolment, nor as a candidate for the forthcoming election. I think the provision contained in the amending legislation is one we could well follow and support.

Mr. COURT: I cannot follow the soundness and the logic of the speakers on the other side of the Committee. I can see some merit in the argument put forward, but it falls down on the basic situation that surrounds a person who has been a Western Australian. This thing could be

quite ludicrous if it is followed to its conclusion, or the conclusion the Opposition would have us follow. Whilst much play has been made regarding a person who might have lived here in his fairly tender years and returned a long time afterwards, there would be more people who were not away for a long period and who wanted to come back and continue residing here.

The Bill provides it shall be a continuous residence in Western Australia. It is not as though they could have intermittent residence of one month here and one month there; and I do not think the Deputy Leader of the Opposition is quite serious when he says that they could not remember such a thing.

Mr. Tonkin: Dead serious.

Mr. COURT: The honourable member is not placing much value on the intelligence of the electors if he thinks they could not remember where they lived for six months. We must realise that if a person makes a false declaration it is quite serious. There is a procedure for objections; and I have not noticed that any of the political parties are tardy in making objections. If there were abuse of the electoral law and we felt somebody had pulled a fast one and it was going to affect our interests, it would be a simple procedure to do something about it.

Mr. Graham: What is the position of a baby born in Western Australia who spent the first 12 months here and did not return for 50 years? Under your formula that person would be eligible.

Mr. COURT: Taking the reverse of that, a person could spend 50 years here, could have worked hard and made a great contribution to the State; but because his employment changed he would go to Victoria for a period of, say, 12 months and lose his residential qualification because he would have become a resident of Victoria. That person could get transferred back here, and the honourable member wants to disqualify him.

The whole thing is absurd if we deny qualification to such a person, particularly when another amendment proposed by the honourable member seeks to cut down the period of qualification. We cannot have it both ways. I think the provision in the Bill is something that is thoroughly understood. It seems to have been accepted here and should remain.

*Sitting suspended from 3.45 to 4.5 p.m.*

Mr. JAMIESON: I do not agree with the argument put forward by the Minister prior to the afternoon tea suspension. Western Australia is a sovereign State, and we are entitled to lay down the period of time before a person can be considered a *bona fide* citizen of the State.

If this provision is to be included in the Act, then it should be in such a way that it can be policed; otherwise it is useless.

If a provision is enacted for a specific purpose and it cannot be policed, then it is dishonest legislation, and we would be wasting our time. We are wasting the time of the Chamber if we insert conditions into our Statutes which it is either impossible or almost impossible to police because of the wording.

If a person is a citizen of a State and has acquired some local knowledge, then wherever he lives he knows which Government is in office. At election time there are usually only two principal parties contesting the election, and a person usually favours one party or the other according to his political habits. One can take up in one area where one left off in one's previous electorate.

The provision as it stands is not satisfactory. It refers to a person living in the State for six months continuously. Continuously when? Can the Minister tell us exactly how long he was in a particular place when he was a member of the Defence Forces?

Mr. Court: I have a pretty fair idea.

Mr. JAMIESON: I might have an idea, but I could not hazard a guess as to the exact length of my stay in a particular place. If I travel overseas after having lived in the State for six months and one day, do I commit a technical breach of the law if, when I return, my name is not on the electoral roll? If there is no way of checking a condition, then the condition should not apply.

Mr. GRAHAM: Unless there are very good reasons for departure, the legislation of this State should conform with established practice throughout Australia. Last year, when I introduced a Bill to amend the Electoral Act, I pointed out, in this matter of residential qualification, that apart from Tasmania this State was the only one which was out of step. The qualification in other States is six months' residence in Australia and three months' residence in a particular State. If that is so, why should we insist on a period of six months for Western Australia? The reason might be that this period has existed in our legislation for a long time. If that is so, then some attention to this matter is long overdue. If the honourable member for Beeloo is agreeable to altering his amendment so that the word "six" will be deleted instead of the words "six months continuously", I might then have an opportunity of inserting the word "three". It is then my intention to insert a further paragraph containing the words "has lived in Australia for six months continuously", which would bring the legislation into line with that of the other States with the exception of Tasmania.

Mr. JAMIESON: I am quite happy to do that, so long as the position is clarified. My purpose, in the first place, was to seek uniformity. I therefore ask leave to withdraw my amendment.

Mr. COURT: I rise on a point of order, because if I object to the amendment it might cause some machinery complication. If any procedure of this nature is followed, and if permission is given, I want to make sure that it does not impair our opposition to the total question of changing the Bill in this particular respect. It should not depart from the Government's intention in respect of the overall question.

**Amendment, by leave, withdrawn.**

Mr. GRAHAM: I move an amendment—

Page 3, line 28—Delete the word "six", with a view to inserting the word "three".

I suggest the responsibility is on the Government to indicate why in Western Australia the period should differ from that which prevails in South Australia, Victoria, New South Wales, and Queensland.

Mr. COURT: I think the obligation is more on the Opposition to demonstrate why we should abandon the principle which has been in the law for so long.

Mr. Tonkin: The fact that it has been the law for so long does not make it sacrosanct. What about things that have been the law for 400 years?

Mr. COURT: The Deputy Leader of the Opposition has now switched his tune. It was only a few hours ago that he was preaching a homily about uniformity for uniformity's sake, and he was accusing the Government of something it had done in that regard. Now he is wanting to change his tune.

Mr. Tonkin: What was my tune?

Mr. COURT: Because something has been the law for a long time, that does not mean it is bad. If we could demonstrate that because of the present provisions in the law anomalies or injustices had been created, the position would be different, and no doubt the Government would be sponsoring a change. But this particular provision has been in the Act for a long time so far as the Legislative Assembly is concerned. We are trying to bring the Legislative Council and the Legislative Assembly machinery into line as much as is practicable. The main cry on the part of the Opposition, as I see it, is that it wants to bring about some uniformity throughout the whole of Australia. It is a fact that in Western Australia there are some things in which we might not want uniformity. For instance, this is a State which covers a tremendous area—a million square miles—and there are electors from one end of it to the other; from Wyndham in the north to Esperance in the south. That in itself creates problems, and therefore I do not think we should lightly depart from something that has worked in the past.

The honourable member for Beeloo was making an analogy between people who had been on war service, and whether

they could remember whether they had been in Queensland or New Guinea. There is a big difference between war service, tourist travel, and residence in a particular place. This refers to residence; it does not refer to some transitory existence or experience.

Mr. Jamieson: If you came back in 25 years' time you would remember what happened when you were three years of age?

Mr. COURT: We could make all sorts of silly examples of this; but in point of fact it would be easy to establish whether one had some continuous residence in the State. I cannot see why all of a sudden this has become something important. It has been in the Act through the life of various governments; and no attempt, so far as I can see from the records, has ever been made to amend it, and apparently it has worked fairly well. I suggest the Opposition has something on its mind that its members are not being completely frank about, and there is something of a nigger in the woodpile about it that makes the amendment desirable. If so, why do they not come out and tell us?

Honourable members opposite have not given us one good reason why the amendment which has been moved should be agreed to. We hold that if a person has established *bona fide* continuous residence in Western Australia for six months, that should be sufficient; because it should be borne in mind that paragraph (c) also applies. A person must have three months' continuous residence in a particular electorate immediately prior to enrolment. That is the safeguard.

Mr. GRAHAM: This amuses me. Based on experience—and we had a further instalment a couple of hours ago—the Government will vigorously oppose this amendment and next week it will introduce a Bill to give effect to it. What is suggested by members of the Opposition by way of motion, Bill, or discussions in Committee is frequently rejected and then adopted by the Government later on by the introduction of its own legislation.

As the Minister for Industrial Development has no ideas as to the necessity for the amendment perhaps I had better give him some. As the law stands a person from overseas—and, as the place has been in the news, let us say he has come from Quebec—becomes entitled to be registered after he has been in Western Australia for six months. We are part and parcel of Australia, but somebody who comes from Victoria or South Australia has to suffer the same impediment. Surely a fellow Australian ought to qualify, in the matter of exercising a vote, before somebody who comes from a country many thousands of miles away. It is in recognition of this that governments of all political colours in other States, with one exception, have this standard pattern of

six months' residence in Australia and three months' residence in the State in which a person seeks enrolment.

Earlier, the honourable member for Beeloo interjected that possibly the six months' provision was inserted originally because it took the best part of that time to travel from the Eastern States to here. There might be some merit in that; but in these days a person can get from one corner of Western Australia to the other extreme in a few hours; and the time factor should be reduced to conform with modern times.

Never at any stage did I suggest that merely because other States have something we should have it too. What I said was that there should be a standard basis and uniformity unless there were compelling reasons for not having it. We are part of a nation, and people move from one part of it to another in far greater numbers and with greater speed than was the case previously.

Therefore we should facilitate the operation under which people who come here can become enrolled and play a part in selecting the government of their choice in their new home State. In my view this concept is so desirable and necessary that I wonder what the Minister for Industrial Development is at when he is calling on his colleagues to vote against the proposition. I ask the Minister: Is this a party Bill?

Mr. Court: The Government has some responsibility to get legislation into a reasonable and considered form.

Mr. GRAHAM: Are honourable members who sit behind the Government bound in every line and in every way?

Mr. Brand: They have given consideration to this. It is a party Bill; it is a government measure.

Mr. GRAHAM: I would point out to the Minister and to the Premier that it will require more votes than the Government has to pass the Bill.

Mr. Court: That's all right. The responsibility is on you in that respect.

Mr. GRAHAM: And the Government has a responsibility, too.

Mr. Court: So we have; and we are accepting it. Can you tell me why all of a sudden this has become something important when you had years and years in which to correct it?

Mr. GRAHAM: That could be said in respect of amendments to any piece of legislation. We are dealing with this proposition now; and if the Minister and the Government intend to adopt this attitude, then they cannot expect co-operation at the hands of the Opposition. And that is not a threat; it is a statement of fact.

Nobody could suggest, whether my amendment is agreed to, or that of the honourable member for Beeloo, that it would give any advantage to one party

or the other. I am certain it would not; but at least it would have us following a common pattern with the other States, and it would be a recognition on our part that fellow Australians are entitled to a little more consideration than persons who have come to this country from many thousands of miles away. Is there anything wrong or illogical in that?

Mr. Court: A person coming from abroad has to have the six months.

Mr. GRAHAM: Yes; and a fellow Australian from over the border has to have six months.

Mr. Court: If a person came from abroad, and was not otherwise disqualified, he would have to accumulate six months' continuous residence, if he had not had some before. But you are painting the picture that people could come from Quebec and walk in here tomorrow and vote.

Mr. GRAHAM: No. What I said was that a person from Quebec, which is very much anti-British Commonwealth, and certainly anti-the Sovereign, could come here and in six months would be entitled to enrol. He would be extended exactly the same privilege as would be extended to a South Australian or a Victorian who came to Western Australia.

Mr. Court: That has been ever thus.

Mr. GRAHAM: It is time it was altered. We are now reaching the stage of having sharp differences on comparatively minor matters, and it will be the Minister and the Government who will finish up at the wrong end of this argument if that is to be the attitude that prevails.

Mr. Brand: We knew that before we started. We knew that we did not have a constitutional majority. That's all right.

Mr. GRAHAM: But no doubt you hoped that the Opposition, whilst differing in minor matters would, nevertheless, co-operate. However, if it is a show of strength and nothing else, then at this stage the Government has set a pattern; and if there are any unfortunate consequences the responsibility will be on the Government, and particularly the Minister.

The CHAIRMAN (Mr. I. W. Manning): I think the honourable member had better stick to the amendment before the Chair.

Mr. GRAHAM: If you will allow me just one word, Mr. Chairman. I am suggesting, as seriously as I can to the Premier that he talk with his colleague immediately on his left.

Mr. COURT: Having heard the rather threatening attitude of the honourable member for Balcatta, I want to tell him—

Mr. Oldfield: You mean the realistic utterances.

Mr. COURT: —that it does not impress us one scrap. There is a background to this legislation which cannot be overlooked. The Government undertook to

bring down legislation in respect of adult franchise for the Legislative Council, and when we did it we were trying to honour promises that had been made.

Mr. Tonkin: That's something new, by the way. It's worth recording.

Mr. COURT: I am glad we have pleased you at last.

Mr. Brand: We have honoured too many promises for your liking.

Mr. COURT: The Minister responsible for this legislation—the Minister for Justice—has endeavoured to bring down legislation which will cause the minimum controversial effect in this Chamber—

Mr. Jamieson: What is controversial in this?

Mr. COURT: It is only that you are making it controversial. I suggest in all sincerity that had the Minister drafted the Bill to give effect to the amendment now proposed by the Opposition, the self-same honourable members would see a catch in it. In fact, he has re-enacted it in the words that have been accepted by governments for years and years. I cannot see why this has become controversial, and why the honourable member for Balcatta should adopt such a threatening attitude. This has been carefully considered by the Government so that it will not be accused of bringing down amendments that will advantage itself or anybody else.

Mr. JAMIESON: The Minister's attitude is remarkable. In effect, he says that the Government introduced a perfect piece of legislation in another place, and that he is not prepared to accept an amendment; but in effect he has already done so. There is no amendment proposed for the re-enactment of section 17, but the amendment was accepted there. So far as the nigger in the woodpile is concerned, it is obvious the matter has just not come up before, and because there happens to be an ancient provision in an Act there is no reason why we should retain it. This is very similar to the penalties contained in the Police Act which the Minister did not wish to alter.

I thought the attitude of the Government was one of law reform, to bring it up to modern standards. What is the use of re-enacting legislation with provisions which catered for the dim and distant past? Can the Minister honestly say it will be policed?

Mr. Court: You are assuming that most of the provisions of the Electoral Act cannot be policed.

Mr. JAMIESON: I say this particular provision cannot be policed.

Mr. Court: Do you know of any abuses of this in the past?

Mr. JAMIESON: No; nor does the Electoral Department. It would be impossible to police. We should not include a provision the meaning of which we do not know. Normally when a person comes here from Great Britain it is six months before he goes on the roll, irrespective of whether he has been here before. Actually he would be breaking the law for not being on the roll for some other period. That it has stood the test of time is no reason to include it particularly as it smacks of legislating for the horse and buggy days.

#### Amendment put and passed.

Mr. TONKIN: If we are to have a law it should be one that can be policed. As it stands this cannot be policed properly. If we are going to get 10 months as a continuous residence qualification in Western Australia for enrolment, I would point out that the 10 months could have been reasonably recent, and therefore I would suggest 10 years as a qualification.

If a person lived here four years ago for six months it would cut no ice with me at all, but if within the last 10 years he claimed he lived in Western Australia continuously it could be checked. It could not be established with any certainty if it happened 30, 40, or 50 years before. My amendment will ensure that he has lived in the State for six months continuously during the 10 years immediately preceding the date of his claim to be so enrolled. If he is out of the State for more than 10 years he should not have any advantage over the person who has not been here before; but if he has lived in Western Australia for six months during the 10 years prior to his claim he should be entitled to some advantage. That could be policed.

To leave it as it is would be ludicrous in certain circumstances and it could not be policed satisfactorily, because, as has been said, a child might be born here, and after he is seven or eight months old be taken away. He may have lived in Canada, gone to Great Britain, and then at the age of 40 or 50 returned to Western Australia; and because he spent the first six months of his life in Western Australia he is given a special claim over people who have lived here for four or five months in the past four or five years. There is a reasonable opportunity of my amendment being policed properly, which is not the case with the Bill as it stands, because nobody could check the claim of a person who sought enrolment. I have lived in many places; but if I were asked, I could not say how long I lived in Kalgoorlie, Kulin, or Ejudina.

Mr. Court: But you would know you were there for more or less than six months.

Mr. TONKIN: Yes; I would know that.

Mr. Court: That is all you have to know under this.

Mr. TONKIN: I would not be able to say for certain that I had lived in Kulin for six months and a day or for five months and three weeks; nor would anybody else.

Mr. Court: Knowing how careful you are, I think you would check up.

Mr. TONKIN: So the law could not be enforced. But that, of course, does not worry this Government, and I could give quite a few illustrations to prove it. In order that the legislation can be policed, I move an amendment—

Page 3, line 29—Insert after the word "continuously" the words "during the period of 10 years immediately preceding the date of his claim to be so enrolled."

Mr. COURT: I oppose the amendment. I do not agree that there is a problem in policing this legislation. There are so many things of this type regarding statutory provisions in dealing with the public, and we must be prepared to accept the penalties that exist under the law. The Electoral Department keeps a vigilant eye on these matters and does a very good job. It could be that a person who was not here for six months out of the 10 years would make the declaration, and that would be just as hard to police. This is not a continuing breach. It is not as though it goes on and on as a breach. If a person did make a mistake and he were only here for five months instead of six months and a day it would not constitute a continuing breach, because once the six months' period has elapsed it has elapsed, and that is all there is to it. We must not get this out of perspective.

One of the honourable members opposite was prepared to take this provision about the six months' qualifying period out altogether, as long as it provided for a properly qualified subject. He would then have relied entirely on the next provision of residence and no doubt he would want that to be for a month only and not for the three months that prevails now. Paragraph (c) provides for a three months' qualifying period prior to the time of enrolment. The provision in the Act and in the Bill gives a good solid qualifying period. There is the six months' continuous residence, not necessarily immediately prior to the declaration, but there must be a three months' qualifying period in that particular electorate immediately prior to the time of being enrolled. I think a combination of the two is a good thing, and it makes the legislation stronger than has been advocated from the other side of the Chamber by the honourable member for Beeloo who was prepared to support its removal altogether.

Mr. Jamieson: Then you would know what the law was.

Mr. COURT: I think the present provision of six months' residence is desirable, and I must oppose the amendment, because I do not think we will achieve any practical solution by it.

Amendment put and negatived.

Mr. JAMIESON: The three months' residential qualification has only been in the Act since 1948, but there is no clear indication why it was inserted. It does not apply in the other States; and by our retaining it the task of parliamentarians and political canvassers would be made more difficult. In these days roll stuffing does not occur, because redistribution takes place from time to time and the areas are not so small as to be affected by stuffing of the rolls with 50 itinerant workers.

The qualification throughout the Commonwealth is one month's residence, except in the case of Queensland and Western Australia. In Queensland the Electoral Department takes action against people for not removing their names from rolls, after being away from the district for one month. With the number of itinerant workers employed in the sugarcane and meat industries, we find the workers moving around in droves; but even then it is difficult to make use of those people to stuff the rolls. I refer to the speeches which were made in 1959-60 which indicated this provision was inserted to protect persons who should have been on the roll, as their place of residence was at the address as listed.

It is important for us to have uniformity with the other States. A person transferred in his employment from Melbourne to Adelaide, or from Sydney to Melbourne, is entitled to be enrolled—both for the State and the Commonwealth—after one month's residence at the new address. However, a person coming from the East to Western Australia has to fill in a form after being here for one month in the case of the Commonwealth roll, and after three months in the case of State rolls.

I refer to section 31 of the Act in which it was intended some uniformity should be achieved with the Commonwealth. This provision had been in operation since 1925, but it was discarded when the Act was amended in 1948. Consideration should be given to changing the period, for the sake of uniformity. If that is done we can come to some arrangement with the Commonwealth—as has been done in South Australia, Victoria, Tasmania, and New South Wales—for a uniform qualification, so that people will know exactly where they stand when they move around in their employment. I therefore move an amendment—

Page 3, line 33—Delete the words "three months" and substitute the words "one month."

Mr. COURT: I oppose the amendment. We have already discussed this in some detail in the course of the previous amendment, and it has also been discussed in another place. I do not propose to dwell on the fact that it has been in the Act for a long time, or that it is in the Queensland Act. Queensland has problems of distance and development, similar to those of Western Australia.

Mr. Jamieson: It is essentially retained for itinerant workers.

Mr. COURT: Queensland has a higher proportion of itinerant workers than any other State, and the three months' residential qualification applying in that State protects the electors. This situation is not peculiar to Queensland in its entirety, because in this State there are many people in the same position, as a result of the developmental work being carried on. It is a reasonable requirement to prescribe a qualification of three months' residence for enrolment. This does not disfranchise the people.

Mr. Heal: Some people are disfranchised.

Mr. COURT: A person moving out from Nedlands to the Kimberley electorate has only to reside there for three months before he can become enrolled. Until he has been there three months he will remain on the Nedlands roll. Having regard to the peculiar situation which exists in Western Australia the three months' residential qualification is a desirable one.

Mr. BICKERTON: I support the amendment and cannot understand the objection raised by the Minister. If we are to put electors to the least amount of inconvenience, then uniformity of residential qualification for enrolment is essential. I would not oppose a proposition to bring the qualification up to three months' residence for the Commonwealth and the other States, to bring them into line with Western Australia; but we know how difficult it would be to do that. It would be much simpler to alter our qualification.

I cannot follow the reasoning of the Minister when he referred to a person moving from Nedlands to the Kimberley. It is true he has to remain on the Nedlands roll for three months, as far as State elections are concerned; but he would be able to be placed on the new roll for Federal elections, after one month's residence in the Kimberley.

The honourable member for Beelo pointed out that with the residential qualification being the same for the Commonwealth and the State we could have one enrolment card. That would be desirable, and would cause electors the least amount of inconvenience to become enrolled. If the Minister is acting under instructions from the Minister who introduced the Bill in another place, then progress should be reported to enable them to reconsider the proposal.

Mr. OLDFIELD: I support the amendment. Although the amendment seeks to legalise what is occurring, the Minister has been in Parliament long enough to know what transpires. When people change their place of residence the first thing they do is to become enrolled. They obtain enrolment cards from the police station or post office, and generally they are given the cards for the Federal as well as the State enrolments. In some cases they are even given enrolment cards for the Legislative Council.

Very often these people do not read the cards properly before filling them in. Some would fill in the cards before they had qualified residentially, and others would fill them all in at the same time. When the Federal electoral authorities receive an enrolment card they notify the State authorities; and the latter send a notification to the new address of the elector, enclosing enrolment cards for the State to be completed and returned. Usually these people fill the cards in immediately and return them, for fear of being fined £2.

Very often people have rung me up to find out the position, because they had not been at their new address for three months but the Electoral Department had written to them requesting them to complete the claim cards. People should not have to fill in three different cards for enrolment. The residential qualification, after a change in residence, should be one month. We could effect a great saving by having one card and one roll, as is done in the other States. If it is possible to do that in the Eastern States it should be possible in Western Australia.

Mr. HEAL: The Minister said people were not disfranchised legally; but I would point out that in some cases they have been disfranchised illegally. The Commonwealth Electoral Department sends people around from door to door to check the rolls, and they give out cards. They will go to a certain house and inquire whether Mrs. Smith lives there. It is found that she shifted five weeks beforehand, so the officer concerned reports back to the Chief Electoral Officer that Mrs. Smith does not live at that address. Immediately a notice is sent to the address to state that she has been struck off the roll, and she is asked if there is any reason why she should not be.

The State Electoral Department does not send people around, but obtains a list from the Commonwealth. When it is ascertained that Mrs. Smith has shifted, a similar letter is sent to her asking her for any reason why she should not be struck off the roll. The Act states that three months must elapse before a person's name is placed on the roll. Mrs. Smith left her address five weeks beforehand and her name is struck off, but she cannot have it placed on the roll in the district to which she has shifted until three

months have elapsed; therefore she has been disfranchised. This amendment is to make the qualification period equal for the State and the Commonwealth and thereby ensure that people are not disfranchised when they should still be on the roll.

Mr. GRAHAM: It appears that this is another instance in which the Minister cannot see anything wrong with the amendment, but suspects that there is an ulterior motive or, to use his terminology, a nigger in the woodpile. I suggest that the Minister and his Government are endeavouring deliberately to confuse and bamboozle the people.

From 1907 until 1948 a residential qualification of one month applied. This was altered in 1948 by, I suppose, the most tragic Attorney-General the State has ever seen (Mr. Val Abbott) who got his deserts shortly afterwards by being defeated by more than 3,000 votes by the present member for Maylands.

Mr. Hawke: Hear, hear!

Mr. GRAHAM: The amendment was made purely for party-political reasons and it was objected to by one who had been a leader of the Liberal Party (Sir Norbert Keenan). I think it might be appropriate to read some of the remarks of the late distinguished gentleman, which are to be found on page 2844 of *Hansard* of 1948, as follows:—

I will deal very briefly with the amendments that are outlined in the Bill. The first I intend to refer to deals with Section 17 wherein are set out the qualifications that must be possessed by any person before he becomes entitled to claim to be enrolled in respect of any electoral district. Those qualifications include one relating to residence. Under the present law, which has operated since 1907, the period necessary before one can claim to be registered is one month's continuous residence. It is proposed to strike out the provision for one month and make it three months. I listened with some care and close attention, as far as the acoustic conditions of the House will allow, to the observations of the Attorney General, and I still remain ignorant as to any particular reason for striking out the word "one" and inserting "three" in lieu. The reason why the month's continuous residential qualification was inserted in the original Act was to prevent roll stuffing, and one month was thought to be sufficient.

That was thought by governments of all political colours for a period of 41 years. The distinguished gentleman went on—

As members are aware, roll stuffing takes place only close to the eve of an election and I would mention as an appropriate fact that it is not one

month but a much longer period that will be necessary in order to effect roll stuffing. In another portion of the principal Act, it is set out that no claim can be lodged for registration on any roll unless it is received 14 days before the issue of the writ and is lodged at the Registrar's office. Then from the date of the issue of the writ a minimum number of seven days must elapse before nomination day and then 14 days must elapse between nomination day and polling day. That makes 35 days in all as the actual period of time necessary to elapse, or, in all, two months and a week.

Honourable members opposite will appreciate from that speech made by one of their own political party that the dangers envisaged by the Minister for Industrial Development are figments of his imagination. I am emphatic with regard to this proposition because last year I introduced a Bill in order to meet the situation; and, as I indicated then, I did so because a near neighbour, a person of Italian extraction, was fined because of the confusion in his mind. Having filled in all that he thought had to be filled in, he considered he had discharged his legal obligation in the matter of enrolment. Subsequently he discovered he should have filled in another card at a different time. That is why I make the assertion that it is part of the policy of the Government to continue this process of befuddling unsuspecting members of the public.

We believe in democracy, and surely it should be made as easy and consistent as possible for persons to get on the roll! It is all right for us who are familiar with Statutes and their requirements, but the general public are not familiar with them.

All these things envisaged by the Minister for Industrial Development, if he were right, should obtain in respect of the Commonwealth enrolments. This amendment is so logical and obvious that I am surprised at the attitude of the Minister in connection with it. I read his remarks made last year when he informed me that the Government was giving consideration to quite a number of amendments to the Electoral Act. It was for that reason I did not press my Bill.

I have read the debate which ensued in another place a couple of weeks ago, and the same position applied there. The Minister did not have an argument. He did not have an argument, because there is no argument. If the Minister for Industrial Development can indicate to us that all sorts of problems are created in the Commonwealth sphere, then he might have a point. But they do not occur.

How much simpler and more convenient, and to the detriment of none, would it be for anyone seeking enrolment to be able to

perform the whole operation at the one time? That is all the amendment seeks. Therefore I hope that the Minister will reflect and, having reflected, will change his attitude to the amendment.

Mr. DAVIES: I also support this amendment. I will not waste time by going over some of the very excellent points submitted by honourable members on this side. I merely comment that I have never heard the Minister so lacking in argument as he was when opposing this amendment. He usually has some kind of argument to submit, but I am afraid on this occasion he had none at all. The only point he made was that it was all right in the Commonwealth, but not in the State. As the honourable member for Balcatta has just said, if it is good enough for the Commonwealth, surely it must be good enough for the State.

Mr. Court: You could reverse that argument if you wanted to.

Mr. DAVIES: I will reverse it then, and ask the Minister whether he has taken any action to persuade the Commonwealth to change over to a three-month residential period to bring it into line with the State. Obviously it is a matter of merely digging the heels in and using the brutal majority once again without having any logical argument to submit.

I think this Committee must be concerned with the fact that if the amendment were to pass, the electors would be caused less confusion. I say that every honourable member present has put someone on the roll at some time or other although that person has not lived at the address for three months. I see you, Sir, shake your head in denial; but I say every honourable member has done so at some time.

Mr. Bovell: What is that?

Mr. DAVIES: We know of the case which occurred in 1961 when one of the Liberal Party's own candidates incorrectly enrolled. A Mr. Howe was opposing the honourable member for Beeloo and we ascertained that his name miraculously appeared on the roll although we knew he had not lived for three months at the address he quoted. In 1962 we took the matter up, and on the 7th August the honourable member for Beeloo asked some questions about it. The Minister for Industrial Development replied that a mistake had been made and the Chief Electoral Officer had accepted Mr. Howe's explanation that he thought he was correctly enrolled although he had not lived there for three months.

Mr. Graham: Whitewash!

Mr. DAVIES: He whitewashed him; that is right.

Mr. Graham: The Government did the same thing with Cleaver, too. He was whitewashed.

Mr. DAVIES: I do not know whether that concerned enrolment though.

Mr. Graham: It was a breach of the law.

Mr. DAVIES: This is a case of how the Government whitewashed a Liberal Party candidate who should know how to get on the roll. The basic thing every honourable member of Parliament and every candidate should know is how to correctly enrol a person. Here was a candidate incorrectly enrolled, and the Government was prepared to whitewash him; and the Minister earlier said that when a person signs a declaration it means something, and if it is incorrectly signed there could be serious consequences. But what happened to a member of the Liberal Party? He did not suffer any serious consequences.

The Minister has not given one valid argument for not accepting the amendment. I remind honourable members that everyone, at some time, has broken this law.

Mr. Court: You speak for yourself in that regard. I am not going to say I have put anyone on the roll illegally.

Mr. DAVIES: I thought the Minister would be a normal politician, but apparently he is not. I shall exclude the Minister.

Mr. Bovell: You can exclude me, too, because I have not put anybody illegally on the roll.

Mr. Graham: The Minister for Lands has never done anything.

Mr. DAVIES: When we canvass an electorate and find someone who has come to live permanently at a particular address, we do not go back six months later to put him on the roll, but leave claim cards with him. Every honourable member knows that is a fact. There is no reason why this amendment should not be accepted, and I support it.

Mr. JAMIESON: The Minister and the Premier should give further consideration to the amendment.

Mr. Brand: We have given it all the consideration necessary.

Mr. JAMIESON: The Minister should think deeply about the amendment. It is not an unfair proposition; it will not give us any more advantage than it will give the Government. One of the first things many people think about when they shift into a new place is enrolment. They do not read the small print in red lettering on the State claim card but sign the card and send it in saying they have lived for three months in their residence. That is done every day; not that people intend deliberately to break the law, but because they conform to a practice which they think is necessary when they shift into a new home.

The Minister has not indicated anything wrong with the principle. He said that ours is a large State and that we have

projects here and there. That argument has been used on all sorts of occasions. We want to know why people who want to be enrolled cannot go on to both rolls at the one time. Perhaps the Minister is inexperienced. It might be worth while to check some of the cards at the electoral office to see if one bears the endorsement of C. W. Court as a witness.

Mr. Bovell: I have done no illegal enrolling.

Mr. JAMIESON: No. If someone says to the Minister, "I want to put myself on the roll," the Minister would ask him where he lived; but I guarantee he would not ask questions to show that the person had been three months in his residence.

Mr. Hawke: The first thing the Minister would ask him is, "Are you going to vote for me?"

Mr. Bovell: I do not ask that sort of question.

Mr. JAMIESON: The Bill contains 38 clauses and we are endeavouring to amend two words, yet the Minister is insisting that the words shall not be amended.

Mr. Graham: Because the Government has considered it—the Premier's contribution.

Mr. JAMIESON: We heard this "malarky" last year when we were dealing with the reprint of some Act. The Minister would not agree to any alteration then because there was a fear by some party or other that there was a nigger in the woodpile; and that is what the Minister is constantly looking for. He is like people who, before they go to bed at night, look under the bed for a Communist.

The Minister could give reasonable consideration to the amendment. It is not an unreasonable proposition, and is desirable for the people of this State. In quite a few electorates we can enrol a person and then not see him for a few years because of the distances involved. I feel the Minister has not given this matter the consideration it deserves. It should receive further attention by the Government, and I suggest the Minister report progress and have the amendment further considered at the Cabinet meeting on Monday.

Mr. COURT: There seems to be idea in the mind of the Opposition that the Government is treating this capriciously and has given no consideration to it. It has been considered on more than one occasion. I have been in consultation with the Minister for Justice this afternoon. I told him of the move by the Opposition to have the period reduced from three months to one month. There is no reason for the Government to change its mind.

It has been said that I have not advanced a single reason in favour of the present law. I think I have. There is

the important basic reason that if a person moves into a new area within a State, particularly one such as ours, it is not unreasonable to expect him to remain there for three months in order to gain an understanding of the electorate. It is not a long time—13 weeks.

The Opposition does not see anything wrong in the Queensland set-up; in fact, it has justified it on the ground that it has a disproportionate number of itinerant workers. The period in that State is three months, and it does not present any great problem there, and it does not in this State.

Mr. Graham: You would not know; you have never enrolled anybody.

Mr. COURT: We are streamlining and simplifying the enrolment procedure in Western Australia. No longer will we have the problem of Legislative Council enrolments. Surely if anything was complicated it was the Legislative Council enrolment as compared with the Legislative Assembly enrolment. In future there will be the one enrolment. I do not think it is asking too much to have a three months' qualifying period in this State.

Mr. DAVIES: The Minister has indicated that the three months is to be retained because people should get to know their electorates. I do not think that is a very reasonable argument. If a person moves into a suburb and pays £5,000 for a house, we can take it he will be established there and will not move out very quickly. He should be able to get on the roll in minimum time—not longer than one month. We are trying to make it easier for the electors, and this point seems to have been completely ignored by the Government.

There is a move for uniformity in various ways amongst the States. We have the uniform companies Act and the uniform divorce laws; and as a result of questions I have asked I understand the States are co-operating with the Commonwealth on a uniform censorship law and in connection with uniform building laws. Those are four matters in respect of which during the life of this Parliament some uniformity has been achieved; and the proposition before us is one that we could reasonably make uniform with the rest of Australia without causing any hardship or giving any gain to any person or political party. By agreeing to the amendment we will be making it convenient for people to become enrolled, and we will also be providing a service for the electors; and that, after all, is what we are here for.

Amendment put and a division called for.

The CHAIRMAN (Mr. I. W. Manning): It has been indicated to me that the honourable member for Cockburn is voting with the Ayes.

**Division taken with the following result:—****Ayes—21**

Mr. Bickerton	Mr. Kelly
Mr. Brady	Mr. D. G. May
Mr. Curran	Mr. Norton
Mr. Davies	Mr. Oldfield
Mr. Fletcher	Mr. Rhatigan
Mr. Graham	Mr. Rowberry
Mr. Hall	Mr. Sewell
Mr. Hawke	Mr. Toms
Mr. Heal	Mr. Tonkin
Mr. W. Hegney	Mr. H. May
Mr. Jamieson	

*(Teller)***Noes—22**

Mr. Bovell	Dr. Henn
Mr. Brand	Mr. Hutchinson
Mr. Burt	Mr. Lewis
Mr. Cornell	Mr. W. A. Manning
Mr. Court	Mr. Mitchell
Mr. Craig	Mr. Nalder
Mr. Crommelin	Mr. Nimmo
Mr. Dunn	Mr. O'Connor
Mr. Gayfer	Mr. Runciman
Mr. Grayden	Mr. Wild
Mr. Guthrie	Mr. O'Neill

*(Teller)***Pairs****Noes**

<b>Ayes</b>	
Mr. J. Hegney	Mr. Hart
Mr. Evans	Mr. Williams
Mr. Moir	Mr. Hearman

**Majority against—1.****Amendment thus negatived.**

Mr. GRAHAM: On page 4, in line 24, and subsequently in lines 28 and 37, it is proposed to give effect to what we have been accustomed to; namely, that a person who is a member of Parliament, irrespective of where he resides, can have his name and that of his wife placed on the roll for the district he represents. I think the Government has made an oversight in that this is a one-way road; because what is the position if a married woman is elected as a member of Parliament? Surely, in all justice, the name of both herself and that of her husband should be placed on the roll!

Mr. Brand: I think that is covered in the Interpretation Act.

Mr. GRAHAM: For which reason, I move an amendment—

Page 4, line 24—Delete the word "wife" and substitute the word "spouse."

We are aware that under section 24 of the Interpretation Act the masculine gender shall include the feminine gender. If we have a provision in which the word "wife"—

Mr. Tonkin: That is not masculine gender.

Mr. GRAHAM: No. I think every honourable member now has the message, and there should be no objection to the principle underlying the amendment.

Mr. COURT: I can see the significance of the amendment and I do not object to the principle in any way because I can see that such a situation could happen and it

would probably happen more often in the future than it has in the past. My interpretation of the clause is that such a situation would be covered by the Interpretation Act. However, because we cannot have the clause amended in another place, in view of the fact that the Bill originated there, I suggest that we should report progress and ask for leave to sit again, to enable the amendment to be studied.

Mr. GRAHAM: If the Government desires to proceed with the measure I do not think there is any need to report progress, because the insertion of the word "spouse" in substitution of the word "wife" will cover the situation. In other words, Mrs. Graham would be able to have her name placed on the Balcatta roll regardless of whether she is referred to as a wife or a spouse. If the amendment is agreed to it will clarify the position and will not take anything away from the clause.

Mr. COURT: I am prepared to accept the amendment to clarify the position. I assume the reference to the word "his" will be covered by the Interpretation Act, and that "his" could become "hers" without any difficulty. I would like to make the reservation that if, after this amendment is submitted to the Crown Law Department some re-drafting may be necessary, in view of the importance of the Electoral Act we may have to recommit the Bill. I accept the principle sought by the honourable member, and I hope the Committee will accept the amendment on that understanding.

**Amendment put and passed.**

The clause was further amended, on motions by Mr. Graham, as follows:—

Page 4, line 28—Delete the word "wife" and substitute the word "spouse".

Page 4, line 37—Delete the word "wife" and substitute the word "spouse".

Mr. GRAHAM: I move an amendment—

Page 5, line 3—Delete the word "wife" and substitute the word "spouse".

Mr. ROWBERRY: The provision would then read, "he and his spouse." Should not all those words be deleted?

Mr. GRAHAM: I would point out that where "he" and "his" appear they mean "she" and "her" under section 26 of the Interpretation Act.

**Amendment put and passed.****Clause, as amended, put and passed.****Clauses 7 to 39 put and passed.****Title put and passed.****Bill reported with amendments.**

**BILLS (2): ASSENT**

Message from the Governor received and read notifying assent to the following Bills:—

1. Cancer Council of Western Australia Act Amendment Bill.
2. Superannuation and Family Benefits Act Amendment Bill.

**OFFENDERS PROBATION AND PAROLE ACT AMENDMENT BILL***Receipt and First Reading*

Bill received from the Council; and, on motion by Mr. Brand (Premier), read a first time.

**WHEAT MARKETING ACT (REVIVAL AND CONTINUANCE) BILL***Second Reading*

Debate resumed, from the 13th October, on the following motion by Mr. Nalder (Minister for Agriculture):—

That the Bill be now read a second time.

**MR. KELLY** (Merredin-Yilgarn) [5.47 p.m.]: This Bill comes before the House because of a lapsed Act which has been on the Statute book for some years. In 1947 the original Bill was passed, and at that time it was deemed to be fully justified. I think it is equally justified today. The reasons given at the time the original Bill was introduced are just as valid at the present moment.

The enactment of the Bill will offer an assurance to the wheatgrowers of Western Australia that, in the unlikely event of any national circumstance interfering with the existing legislation, it would be available on the Statute book to cope with the situation in which wheatgrowers would find themselves under the wheat industry stabilisation scheme. As honourable members know, this stabilisation scheme has performed a great and important function for the wheatgrowers of the State. It contributed very largely to the revival of rural industry at a period when matters looked very grim for the future of cereal growing. At that particular time the price on realisation was far below the cost of production. This legislation which we are seeking to place on the Statute book is complementary to the very important legislation which has been enacted by the Commonwealth over that period of time.

I think it can be said that the legislation under which wheatgrowing has been conducted during the past 11 years, has formed what might easily be termed the sheet anchor for the industry. It has been the cornerstone on which success has been built into the industry in this State, and undoubtedly it has been responsible

for a tremendous amount of export advantage to this State in the period of time in which it has existed.

I think the Act is distinctive in so far as it is one of the few measures that has been on the Statute book for a number of years and has never been called upon to function. This Act was placed on the Statute book in 1947 more as a precautionary measure than anything else, and it has provided a guarantee to the people producing wheat over a long period of time that if anything did occur to interfere with the Commonwealth set-up, then we would have legislation on our Statute book to provide a scheme to take the place of any Commonwealth scheme.

I think it would be poor compensation to our growers if we did reach the point where the Commonwealth abandoned the wheat stabilisation scheme—I hope there is no likelihood of this—and we had to fall back on this legislation in the hope that we would achieve a great deal for the industry. Nevertheless it is, as the Minister explained, a precautionary measure and one that should continue.

The only other comment I wish to make is in connection with some of the continuation clauses in the Bill which might be necessary in the case of possible repercussions because of the fact that this Act went out of existence in 1961. The Act has not been operative in the past, so I do not think it would have mattered if we had left the clauses out of this measure in connection with the discontinuation of the Act and the lapse between the period when it was discontinued and now.

I have pleasure in supporting this measure. Although it is a precautionary one it is advisable to have it on our Statute book; and I again express the hope that we will never require to use it.

**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.

**POLICE ASSISTANCE COMPENSATION BILL***Second Reading*

**MR. CRAIG** (Toodyay—Minister for Police) [5.57 p.m.]: I move—

That the Bill be now read a second time.

This Bill is being introduced by me, on behalf of the Minister for Justice, to provide for compensation to civilians injured whilst assisting the police. It is intended that the provisions in this measure will supersede in general practice the systems to which we have been accustomed in the past of making *ex gratia* payments to persons injured while assisting the police in

the execution of their duties. This type of legislation is new to Australia as there is no comparative legislation in existence in other States. It is understood, however, that both in England and in New Zealand, legislation of this nature has been contemplated for some time with a view to compensating victims of crimes of violence.

The Bill will confer a right upon one who suffers personal injury arising out of, or in the course of, assisting or attempting to assist a police officer in arresting another person after being requested to do so by the officer. Likewise, if he attempts to assist when requested and is injured, he will be compensated. Any person who, on request, assists the police in preserving the peace will have a right to be compensated should he be injured.

The right to compensation is apparent also in the Bill if assistance is given in circumstances in which the person concerned reasonably inferred that he had been requested to give assistance—for example, a policeman may have only been able to give a garbled request due to the circumstances of the attack and could therefore only indicate his request for assistance, but not be in a position to make a vocal request—and also in circumstances from which he could have reasonably expected that he would have been so requested, had the police officer been conscious of those circumstances and had he been physically able to request assistance. These latter circumstances could well exist where a police officer was unaware of an impending attack from behind; or if, during a melee at, say, a supper bar, rowdies knocked a police officer unconscious, it could reasonably be inferred that, had he been aware of these circumstances being likely to occur, he would have called for assistance.

Compensation will be payable not only in respect of persons assisting the Police but, should they sacrifice their lives in giving such assistance, their dependants will be entitled to be paid compensation as provided for in clause 5 of the Bill.

Compensation will be payable by the Minister for Police as representing the Crown in accordance with the provisions of the Workers' Compensation Act and the rules and regulations made under it. This means that a person assisting the police in the execution of his duties will be considered, for the purposes of this Bill, as a worker employed by the Crown, and as though his average weekly earnings were not less than the basic wage. It follows he will be regarded as having suffered personal injury by accident arising out of or in the course of employment with the Crown.

Furthermore, the Bill contains provision empowering, but not requiring, the Governor to make compensation for the loss of or damage to that person's property or

to property in his possession or under his control when rendering assistance, if the damage or destruction arises out of actions taken in response to a request by the police. So a person, though uninjured himself, may still claim compensation for damage to property; and if he is not insured, he will probably be paid. The limits to compensation for damage to property may be prescribed in the regulations.

There would be nothing, of course, to prevent an injured person from suing his attacker in common law for damages. He might elect to do that but it would deprive him of his rights under this Bill; for if he recovered both damages in common law and compensation under the provisions of this measure, the amount of compensation would be recoverable by the Minister for Police as a debt due to the Crown.

However, the Minister may take proceedings against any person liable in respect of personal injury or damage to property and recover, in a court of competent jurisdiction, the amount of compensation or such portion of it as the court determines.

The Bill authorises the State Government Insurance Office to issue a policy of insurance for the full amount of the liability to pay compensation for personal injury or damage to property for which provision is made in this measure.

When this Bill becomes an Act, any expenses incurred in its administration will be a charge against Consolidated Revenue, as also any premiums payable for insurance coverage and any compensation paid and not covered by the policy.

There have been in recent years only two instances where personal injury has been suffered by civilians who assisted the police, but the possibility of large claims is always present. Each claim in the past has been dealt with on its merits—Government approval being obtained for *ex gratia* payments of compensation to cover medical expenses and loss of wages only. As far as is known, similar procedures are being followed in other States.

While every able-bodied citizen might be expected to consider it his duty to assist the police, if called upon, it is a fact, nevertheless, that a charge may be laid under section 176 of the Criminal Code for refusal to assist a police officer in the execution of his duties when called upon. As there is a statutory obligation to assist the police, it seems quite reasonable to make provision for compensation for injury arising out of or in the course of rendering or attempting to render such assistance as is contained in this measure.

I feel sure that this Bill will be well received. The Leader of the Opposition wrote to the Government concerning the matter last year, and I trust the contents of this Bill meet his requirements. I commend the Bill to the House.

Debate adjourned, on motion by Mr. Brady.

## COUNTRY TOWNS SEWERAGE ACT AMENDMENT BILL

### *Second Reading*

Debate resumed, from the 17th September, on the following motion by Mr. Wild (Minister for Water Supplies):—

That the Bill be now read a second time.

**MR. KELLY** (Merredin-Yilgarn) [6.5 p.m.] : The Country Towns Sewerage Act has been on the Statute book since 1948 and contains 120 sections. The amendments contained in this Bill cover no fewer than 35 of those sections. Twenty-four clauses in the Bill and 12 subclauses are devoted to the deletion of the words "district" and "districts" wherever they appear in the legislation, and the substitution of the word "area".

A number of other clauses include the word "estimated" mainly when dealing with values, such as the unimproved or estimated unimproved capital value, the estimated net annual value, and estimated valuation. In each case I think the addition of this word "estimated" does give a much broader application and the provisions affected will be improved.

A provision is included in connection with appeals against estimated net value or annual value, and to my way of thinking this is an improvement because it now broadens the ratepayer's scope for appeal. The section will be very much clearer and will now be a little in favour of the ratepayer.

The next provision gives power to the Minister to exempt any land which has previously been rated within a sewerage area, and it also gives the Minister power to rate land that has been previously exempted. When we reason this out, effluxion of time brings about changes which make this amending Bill desirable. In this instance it is of particular advantage and will improve the Act.

However, the Minister could have given us some indication of what brought about the introduction of this Bill. There must have been some specific cases which he is endeavouring to correct. When he replies, perhaps he could give reasons why it is being attempted through this amending Bill. No doubt he has good and valid reasons.

**Mr. Wild:** What section are you referring to?

**MR. KELLY:** I do not know the particular section. I am dealing with the appearance of the Bill as a whole. There are several amendments contained in it which are necessary in view of the Local Government Act which is now in operation. The word "secretary" is being replaced by the words "shire clerk"; and wherever the words "road board" appear in the parent Act they will be replaced by the words "shire council." Both these amendments are necessary.

Generally speaking, the Bill will improve the wording of the Act; in the matter of phraseology it will serve a very good purpose and I support the second reading.

**Question put and passed.**

**Bill read a second time.**

*In Committee, etc.*

The Chairman of Committees (Mr. I. W. Manning) in the Chair; Mr. Wild (Minister for Water Supplies) in charge of the Bill.

**Clauses 1 to 14 put and passed.**

**Clause 15: Section 49 repealed and re-enacted—**

**Mr. WILD:** I move an amendment—

Page 5, line 19—Delete the word "unimproved".

There were one or two errors made in the drafting of the Bill, and the word "unimproved" was inserted in error.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clauses 16 and 17 put and passed.**

**Clause 18: Section 52 amended—**

**Mr. WILD:** I move an amendment—

Page 6, lines 7 and 8—Delete the words "and, again, in line two of subsection (3)".

These words were also inserted in error.

**Amendment put and passed.**

**Mr. WILD:** I move an amendment—

Page 6, line 9—Delete the words "in each case."

**Amendment put and passed.**

**Mr. WILD:** I move an amendment—

Page 6—Insert after paragraph (b) in lines 6 to 9 the following new paragraph to stand as paragraph (c):—

(c) by substituting for the passage commencing with the word, "Where", being the first word in subsection (3), down to and including the word, "necessary" in line four of that subsection, the words, "Where in respect of any area the Minister is of opinion at any time that the making and levying of a sewerage rate for a part of the year only is expedient."

This matter was drawn to my attention by the department, and the purpose of the amendment is to legalise that operation.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

*Sitting suspended from 6.15 to 7.30 p.m.*

**Clauses 19 to 35 put and passed.**

**Title put and passed.**

**Bill reported with amendments.**

## MORAWA-KOOLANOOKA HILLS RAILWAY BILL

### *Tabling of Report and Plan*

**MR. COURT** (Nedlands—Minister for Railways) [7.35 p.m.]: This Bill is for a railway and, in accordance with the Statutes, before I move the second reading I ask your permission, Mr. Speaker, to table the report of the Transport Board under section 11 of the State Transport Co-ordination Act under date the 9th October, 1964, and also plan No. 55125.

*The report and plan were tabled.*

### *Second Reading*

**MR. COURT** (Nedlands—Minister for Railways) [7.36 p.m.]: I move—

That the Bill be now read a second time.

This Bill is made necessary by the provisions of the Iron Ore (Tallering Peak) Agreement No. 49 of 1961, assented to on the 23rd November, 1961, to approve, ratify and confirm the agreement between the Government and Western Mining Corporation Limited relating to iron ore pyrites and concentrates, and to provide for carrying the agreement into effect, and for incidental and other purposes; and also the amending Act thereto, No. 68 of 1962, assented to on the 30th November, 1962, wherein Act No. 49 of 1961 is referred to as the principal Act.

For the assistance of honourable members who will be considering this Bill I propose to quote some of the clauses from the agreement, and, of course, clauses directly relating to the railway proposal under the Western Mining Corporation agreement to save a lot of cross-reference.

Clause 6 of the 1961 agreement was deleted by an amending Act, No. 68 of 1962, and the following clause was substituted:—

6. (1) The Company covenants and agrees with the State that within a period of three (3) months from the notice date the Company will along a practicable route which subject to and after approval thereof by the Railways Commission shall be surveyed by the Company commence to construct in accordance with such reasonable specifications as may be laid down by the Railways Commission and will thereafter with due diligence complete and to the extent required by the Railways Commission fence on land to be leased to the Company by the State for the purpose—

- (a) a single line railway with its appurtenances from a point to be determined by the Company within Temporary Reserve No. 1972H to the railhead at Mullewa or to such other point within two (2) miles of the said railhead on

the existing railway as the Railways Commission determines; or

- (b) a single line railway with its appurtenances from a point to be determined by the Company within Temporary Reserve No. 1973H to Morawa or such other point within three (3) miles of Morawa as the Railways Commission determines.

I should emphasise that the railway in question, the subject of this Bill and covered by the plan I have tabled, is the railway referred to in paragraph (b) as coming from Temporary Reserve No. 1973H to Morawa, or such other point within three miles of Morawa as the Railways Commission determines. Subclause (5) of clause 6 in the agreement reads—

(5) Before commencing construction of either of the railways referred to in paragraphs (a) and (b) of subclause (1) of this clause the Company shall give notice in writing to the State of its intention to commence and thereafter may at any time give a further notice in writing to the State that it desires to commence construction of the other of such railways in accordance with the provisions of the said subclause (1). Upon the receipt of either such notice the State if the making of the railway the subject of the notice has then already been authorised by an Act and otherwise so soon as authorisation therefor has been given shall so soon as conveniently may be—

- (a) at the expense of the State and the Company equally acquire such land and exercise such other statutory powers as may be necessary to enable the construction of the railway the subject of the notice; and

- (b) grant to the Company a lease of the land so acquired and all other land that may be necessary to enable the construction of the railway the subject of the notice for a term of twelve (12) years at an annual rental of one peppercorn subject however to the provisions of this agreement and in any event if after five (5) years from the grant of the lease either party shall—within a period of six (6) months after the expiration of any year in which the company shall offer for transport under this agreement less than five hundred thousand (500,000) tons of iron ore pyrites and/or concentrates by means of

the railway constructed on the land the subject of the lease—give to the other notice that the lease is then to determine the lease shall at the expiration of six (6) months from the giving of the notice determine accordingly. Such lease shall contain a covenant by the company to construct the railway the subject of the relevant notice and such other covenants and provisos as the Solicitor General for the said State reasonably considers necessary for the protection of the State as lessor.

A further relevant provision is contained in subclause (6), as follows:—

(6) The State shall as soon as convenient may be introduce a Bill in the said Parliament seeking the approval of the said Parliament to the making of either of the said railways to the making of which such approval has not already been given. If and when such Bill is passed as an Act both the said railways shall for all purposes be deemed railways to which Part VI of the Public Works Act, 1902 applies.

I think those references from the agreement will be helpful to honourable members when considering the background of this railway.

Under section 96, subclause (1) of the Public Works Act, 1902, every railway shall be made only on the authority of a special Act which shall state as nearly as may be the line of the railway and the two termini thereof; but it shall be lawful to deviate from such line at a distance of one mile on either side thereof or such other distance as may be provided in any special Act.

In view of the foregoing the railway cannot be constructed nor action taken under part VI of the Public Works Act relating to the construction of railways until the Bill now before the House is passed. The description of the proposed railway is given in the schedule to this Bill and the course of the railway is shown on the map which I have laid upon the Table of the House in conformity with section 96 (2) of the Public Works Act. It is considered that the limits of deviation of one mile referred to will suffice and special limits are not required.

It is not uncommon, when a Bill of this kind is introduced, to ask for a wider deviation factor than is automatically covered by the Public Works Act. The Commissioner of Railways, however, has assured me that with the surveys completed as far as they have been, the statutory provision in the Public Works Act will be adequate, and it is not likely that any approval outside of that deviation will be required.

As the company has given the required notice of its desire to construct the railway from Koolanooka Hills to Morawa and has carried out the survey of a route satisfactory to the Railways Commission, it now becomes obligatory upon the State, under subclause (6) of clause 6 of the agreement in the principal Act, as amended by Act No. 68 of 1962, to seek the approval of Parliament to the making of the railway to allow of the agreement—and the provisions of those Acts—being implemented.

There is no need for me to elaborate on the reasons for this railway. In the schedule the Bill gives the total length of railway line as approximately 11 miles 51 chains from the point where it will leave the mining area to where it connects with the existing W.A.G.R. line about three miles north of Morawa. The need for the railway to be constructed is well known to honourable members; it is because of the agreement which the Western Mining Corporation has completed with the Japanese for the sale of 5,100,000 tons of iron. Hence the reason for the company giving notice, under the terms of the agreement, that it desires to construct the railway.

Debate adjourned, on motion by Mr. Sewell.

## CEMETERIES ACT AMENDMENT BILL

### *Second Reading*

MR. NALDER (Katanning—Minister for Agriculture) [7.46 p.m.]: I move—

That the Bill be now read a second time.

There are only two provisions contained in this Bill. The first one enables the council of a municipality to be appointed by the Governor as the sole trustee of any public cemetery. Although appointments in this regard have been made for many years, there was an element of doubt, and it was therefore considered proper to resolve the matter of appointments with certainty. Apart from the appointment of a council to act as trustee, there is no other change in this particular section of the Act, except that it has been redrafted to improve its clarity.

The other amendment contained in this Bill gives authority to the council of a municipal district to arrange for the burial of a dead body, in cases where nobody appears to be responsible for the burial. In addition, if the council subsequently locates the person who would have been responsible, it may recover all its expenses in a court of competent jurisdiction.

This amendment will take care of the situation when, as has happened, a person has died without any person being known to be responsible for making burial arrangements.

Any council of a municipality that has attended to a burial in these circumstances is protected in any action to recover expenses incurred in cases where the estate makes this possible, or from the persons responsible should they be subsequently located.

Debate adjourned, on motion by Mr. Norton.

## SUITORS' FUND BILL

### *Second Reading*

MR. COURT (Nedlands—Minister for Industrial Development) [7.49 p.m.]: I move—

That the Bill be now read a second time.

This Bill could have far-reaching effects. So far as legislation goes it is not exactly a novel Bill, but over the years it could prove to be a step forward.

Mr. Hall: Has it anything to do with textiles?

MR. COURT: It could be a measure that is a step forward to enable the processes of law to be made available to more people on terms within their reach. For the benefit of the honourable member for Albany I can assure him it has nothing to do with suits as he may have been thinking; it deals with suitors. It provides for the establishment at the Treasury of a fund to be called the "Suitors' Fund" and the setting up of an appeal costs board to administer this Act when it is passed, and to control and manage the suitors' fund. The fund is to be financed through the levying of an additional fee of an amount of 1s. or such sum not exceeding 2s., as may from time to time be prescribed to be paid to the proper officer of the appropriate court in circumstances as follows:—

- (a) Upon the issue of any writ or summons whereby an action is commenced in the Supreme Court;
- (b) Upon the entry of plaint in the Local Court; or
- (c) Upon the issue of any summons to a defendant upon complaint under the Justices Act, 1902, whereby any proceeding is commenced in a Court of Petty Sessions.

It has been estimated that a fee of 1s. would raise approximately £5,000 for the purposes of the fund.

With these few introductory remarks I desire to say that the Minister for Justice has been giving consideration for some time past to the question of establishing a fund for the purpose of indemnifying litigants for legal costs ordered to be paid in particular circumstances. New South Wales and Victoria are at present the only States in Australia which have established a suitors' fund. It is considered that the levy is in the nature of an insurance premium by intending litigants. It is not

considered desirable to effect any reduction in revenue by diverting a proportion of court fees from Consolidated Revenue in order to finance the fund.

The establishment of the fund is favoured by the Law Reform Committee of the Law Society, although the committee would prefer the fund to be financed from Consolidated Revenue on the grounds that it is designed to benefit all persons who may be involved in litigation, and a surcharge on the issue of writs and similar processes amounts virtually to a tax on those persons who issue processes. However, the committee does not consider that the alternative of a surcharge on the issue of writs and processes as contained in this measure would be objectionable.

The New South Wales fund is financed by means of allocating a percentage of court fees that are payable to Consolidated Revenue. The percentage is fixed from time to time by proclamation. The original proportion of court fees allocated to the fund was 10 per cent. Since July, 1955, the proportion has been reduced to 1 per cent. An overall increase in court fees of one-ninth was made at the commencement to offset the contributions to the fund.

In other words, the State revenue in New South Wales did not pay money, because they increased the fees payable by the appropriate percentage so as to provide this money. I cannot answer the obvious question that would have come to the minds of honourable members—but I must have a look at it before the Committee stage—as to whether they ever reduced the percentage which they originally added to the court fees when they decided they only had to pay 1 per cent. instead of 10 per cent. But knowing treasurers and treasuries as I do, I am sure they altered the 10 per cent. to 1 per cent., but they did not alter the other one.

The Victorian fund is financed by a surcharge on court fees as follows:—

- (a) upon the issue of any writ or summons whereby any action or suit is commenced in the Supreme Court of Victoria—one pound;
- (b) upon the issue of any summons whereby any proceeding is commenced in the county court—ten shillings; and
- (c) upon the issue of any complaint or summons whereby any proceeding is commenced in a court of petty sessions or before justices—one shilling.

It is submitted in support of this Bill that the establishment of such a fund along the lines proposed would be a desirable step in the direction of providing in specified cases the means for appeals, particularly those cases where there is

need to clarify the law where otherwise the probable cost would make an appeal prohibitive. The benefits to be derived are clearly set out in clauses 11, 14, and 15 of the Bill, and I shall endeavour to explain as briefly as possible the intent of these clauses.

I am afraid, however, it is a fairly lengthy explanation; but if I spend a bit of time on it it might make it easier for those who research the Bill on this side of the House or on the Opposition benches. It is fairly complicated. Clause 11 covers certificates of indemnity entitling respondents to be paid from the fund. The costs which may be met out of the fund are as follows:—

- (a) an amount equal to the appellant's costs of the appeal in respect of which the indemnity certificate was granted. Also the costs of any appeal or appeals in a sequence of appeals preceding the appeal the subject of the certificate of indemnity granted and actually paid by the respondent.
- (b) The fund may be used to meet an amount equal to the respondent's costs of the appeal in respect of which the certificate was granted. Similar provisions apply in respect of respondent's costs in a sequence of appeals as in respect of appellant's costs. That is, with a certificate granted as taxed or agreed upon by the board and the respondent or his solicitor and not ordered to be paid by any other party.
- (c) When the respondent's costs are taxed at the instance of the respondent, the fund may meet an amount equal to the costs incurred by the respondent in having the costs taxed.

In the case of an indemnity certificate being granted and the respondent unreasonably refusing or neglecting to pay the appellant the costs of the appeal, or should the respondent, through lack of means, be unable to pay these costs or any part of them, or should their payment cause him undue hardship, the appeal costs board may direct in writing that an amount equal to those costs, or to the part not already paid, be paid from the fund. This provision holds good as already indicated when the costs or part of the costs have not already been paid by the respondent and the certificate of taxation in respect thereof is produced to the board.

Accordingly the fund may meet such amount for and on behalf of the respondent to the appellant. Thereupon the appellant will be entitled to payment from the board in accordance with the direction of the board, the fund being discharged from liability to the respondent

in respect of those costs to the extent of the amount paid in accordance with the direction.

There is a provision contained in sub-clause (3) of clause 11 that the aggregate of the amounts payable in respect of the respondent shall not exceed the amount payable in respect of the appellant. There is the further proviso also that the amount payable from the fund to any one respondent pursuant to an indemnity certificate shall not in any case exceed £500 or such other amount as may be prescribed from time to time by regulation.

The next clause with which I shall deal is No. 14 and the provisions here cover abortive proceedings and new trials after proceedings have been discontinued. An amount shall not be paid under the circumstances set out in clause 14 from the fund to the Crown or to a company or foreign company that has a paid up capital of or equivalent to £100,000 or more. The significance of that will be apparent to honourable members.

With that proviso, the board may, upon application, direct the payment from the fund of the full costs or part of the costs as the board may determine, which are incurred by the party or the accused or the appellant in proceedings before they were rendered abortive or a conviction quashed or a hearing discontinued. Payment may be made in the following circumstances:—

- (a) In the case of any civil or criminal proceedings rendered abortive by the death or protracted illness of the judge, magistrate, or justice before whom the proceedings were held or when rendered abortive by disagreement on the part of the jury where the proceedings are with a jury;
- (b) When an appeal on a question of law against the conviction of a person convicted on indictment is upheld and a new trial is ordered. Such person in this clause is called the appellant;
- (c) When the hearing of any civil or criminal proceeding is discontinued and a new trial is ordered by the presiding judge, magistrate, or justice for a reason not attributable in any way to the act, neglect, or default in the case of civil proceedings of all or any one or more of the parties, their counsel or solicitors. In these circumstances, the presiding judge, magistrate, or justice is empowered to grant a certificate. A certificate may be granted in the case of civil proceedings to any party to it. The certificate would state the reason why the proceedings were discontinued and a new trial ordered with reference made that the new trial

was not attributable in any way to any of the parties or their legal representatives. In the case of criminal proceedings, the certificate may be granted to the accused. It will state the reason why the proceedings were discontinued and a new trial ordered, and make reference to the fact that this reason was not attributable in any way to him or his legal representatives. As already inferred, if any of the events, as just referred to, result in additional costs being incurred by reason of the new trial in consequence of the proceedings being rendered abortive, or as a consequence of the order for a new trial, then the board may, upon application made to it in that behalf, direct payment of costs or part costs from the fund to the party, or the accused, or the appellant, as the case may be.

Finally, the fund may be called upon in the event of a new trial to be held on the ground that damages awarded were excessive or inadequate. Relative provisions here are contained in clause 15. In such circumstances, the respondent to the motion for the new trial is entitled to be paid from the fund an amount equal to the costs of the appellant in the motion for and upon the new trial ordered to be paid, and already paid, by the respondent.

Where the board is satisfied, however, that the respondent unreasonably refuses, or rejects, or is unable through lack of means to pay the whole of those costs or part of them, it may direct in writing that an amount equal to those costs, or to the part not paid by the respondent, be paid from the fund. This would be paid for, and on behalf of, the respondent to the appellant, the fund being discharged from liability to the respondent in respect of the costs and to the extent of the amount paid in accordance with the direction.

Similar procedures may be followed where the board is satisfied that payment of the costs or part costs would cause the respondent undue hardship; also that the costs or part have not already been paid by the respondent and the certificate of taxation in respect of them is produced to the board. The respondent on the motion for a new trial is entitled to be paid from the fund an amount equal to his costs in respect of the motion, for and upon the new trial as taxed or agreed by the board, and the respondent, or the respondent's solicitor, and not ordered to be paid by any other party. Where those costs, however, are taxed at the instance of the respondent, the fund may meet an amount equal to the costs incurred by him in having the costs taxed.

Again in this clause, the aggregate of the amounts payable from the fund in respect of respondent's costs may not exceed that payable in respect of the costs of the appellant. In either case, the amount payable in respect of the motion for a new trial shall not exceed £500 or such amount prescribed by regulation.

The clause has no application where the respondent to the motion for the new trial is the Crown, or a company or foreign company having a paid-up capital of, or equivalent to, £100,000.

Provision is made in the Bill for the Treasurer with the approval of the Governor to advance from time to time sufficient money to the fund to meet its liabilities, upon certification by the board that the amount of money standing to the credit of the fund is insufficient for the purposes of the Act. Advances will be restricted to such amounts as are sufficient for the time being to make up a deficiency in the fund.

Amounts so advanced shall be repaid to the Treasurer when money is again available in the fund, and the Public Account will be credited with such repayments. Conversely, when the board holds moneys in the fund which are surplus to its immediate requirements, they may be temporarily invested by the Treasurer in trust fund investments and the interest credited to the fund.

The Governor shall make the appointments to the three-member board. One member will be nominated by the Law Society of Western Australia, one nominated by the Barristers' Board, and the Governor shall choose the chairman. Each member shall be appointed for the term of office, not exceeding three years, as specified by the Governor at the time of appointment. They will be eligible for re-appointment.

At a meeting of this three-member board, two shall constitute a quorum, and decisions shall be made by a majority of the votes of the members present. But if only two members are present and they differ in opinion upon any question, there is provision for the decision to be deferred to a later meeting of the board at which all three members are present.

In addition to discharging the requirements of the Act generally, the board is obliged to advise the Minister upon any matter relating to the operation of the Act submitted to it by him. This is quite an important aspect for, though I have gone to some length in my endeavours to place before honourable members a reasonably clear view of the intention of this legislation, I would not like to be instrumental in an erroneous impression being formed as to the extent of the assistance which might be given from the very moderate annual income which is expected to accrue to the fund.

It has, of course, been necessary to provide in the Bill a power enabling the Supreme Court to grant an indemnity certificate. There would be no obligation upon the court to grant such a certificate in any particular case, but upon reference to clause 10, it will be seen that such certificate may be granted where an appeal against the decision of a court in civil proceedings on a question of law succeeds.

It would be reasonable to infer that these provisions may be applied in particular in an action contested in the first instance because of obscurity in the relevant law, particularly where the contest is, in the opinion of the court, a test case or one of exceptional public importance. An example would be where action is brought by a ratepayer against a local authority to restrain some Act which may be *ultra vires*; the action, if properly brought to clarify an obscure law, is in effect brought on behalf of ratepayers generally.

I think no good purpose would be served at this stage in the Bill's progress to elaborate further in that regard, but I invite honourable members' attention to the provisions contained in clause 13 to the effect that no appeal lies against the grant or refusal by the court to issue an indemnity certificate; nor may a certificate be issued in respect of an appeal from proceedings beginning in a court in the first instance, before the coming into operation of this Bill as an Act. Then there is the overall provision that no indemnity certificate may be granted in favour of the Crown, or company or a foreign company having a paid-up capital of, or equivalent to, £100,000 or more, to which several earlier references were made.

In clause 12 there are set out circumstances under which an indemnity certificate is vacated. I shall deal with these briefly. A certificate granted to a respondent in respect of an appeal being one in a sequence of appeals is vacated should the successful party to the appeal in a later appeal in the sequence be the one to whom the certificate was granted. Conversely, it would be vacated in respect of a later appeal in a sequence when the respondent to the earlier appeal is party to the later appeal.

An indemnity certificate granted to a respondent in respect of an appeal would be inoperative during the time specified, when the time is limited for appealing against the decision in the appeal. Where a time is not limited for appealing against the decision in the appeal, a certificate would be inoperative until an application for leave to appeal against the decision had been determined. Where leave to appeal is granted, the certificate would be inoperative until the appeal is instituted; or until the respondent lodges with the board a written undertaking by him that he will not apply for leave to appeal, or to appeal against the decision in the appeal, whichever first happens.

An indemnity certificate granted to a respondent in respect of an appeal is inoperative during the pending of the appeal notwithstanding the earlier references where the decision in the appeal is the subject of an appeal.

Subclause (3) contains certain qualifications to the foregoing. A respondent may be required to repay to the board any amount paid to him under an indemnity certificate on a question of breach of faith by him in respect of an appeal.

It is not expected there will be a considerable amount of work to be done by the board under the Act, but power is given to the board to appoint a secretary and other officers to assist it. Honourable members will gather from this rather involved discourse on the contents of the Bill that a great many eventualities are provided for.

Mr. H. May: Who establishes the liability?

Mr. COURT: A board is to be established to consider these things. In certain circumstances the Supreme Court has power to give a certificate of indemnity, and that certificate is an important feature of the entitlement to have access to this fund.

The provisions are very involved, not only because they cover a great multiplicity of things, but more particularly because they ensure that the fund will be used for the purposes which the legislation intends it to be used, and that it will not be used capriciously. Thus the availability of the legal machinery to people who might otherwise not be able to have access to it is increased.

Mr. Bickerton: It would be cheaper to have an ombudsman.

Mr. COURT: Not when the honourable member reads the Bill.

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

## BILLS (3): MESSAGES

### Appropriation

Messages from the Governor received and read recommending appropriation for the purposes of the following Bills:—

1. Police Assistance Compensation Bill.
2. Morawa-Koolanooka Hills Railway Bill.

Message from the Lieutenant-Governor received and read recommending appropriation for the purposes of the following Bill:—

3. Suitors' Fund Bill.

## CRIMINAL CODE AMENDMENT BILL

### *Second Reading*

**MR. COURT** (Nedlands—Minister for Industrial Development) [8.12 p.m.]: I move—

That the Bill be now read a second time.

The Commonwealth Government last year passed appropriate legislation under the title of the Crimes (Aircraft) Act for the protection of the safety of passengers and crews of aircraft and also the safety of the aircraft itself both when grounded and in flight.

That legislation concerns flights which are not wholly and exclusively intrastate flights. During 1963, the Commonwealth, on the occasion of the meetings of the Standing Committee of Federal and State Attorneys-General on the 5th April and the 19th July, respectively, requested the States to legislate along similar lines for protection of aircraft and services which may be termed intrastate services.

State Ministers present agreed, subject to their separate Cabinets' approvals, to introduce the necessary legislation. Victoria and Queensland have already done so. By introducing this Bill, Western Australia is bringing its laws into conformity, and other States are in course of complying with the Commonwealth request.

Honourable members will be aware of a number of happenings in recent years in Australia, as well as in other countries, which have indicated the need for such legislation. Crews and passengers have at times been assaulted, grounded aircraft have been stolen and hijacked, and there have been bomb scares. These events have emphasised the inadequacy of existing laws for dealing with such offences; and it is pointed out, in introducing this measure, that they are of a nature which could well occasion the most serious consequences to both passengers and crews.

It will be apparent then that while similar offences committed under ordinary circumstances are regarded under the Criminal Code as misdemeanours, the seriousness of their effect when committed with respect to the crews and passengers of aircraft, places these offences in the more serious category of crimes.

To take one instance, the offence of assault covered by section 318 of the Criminal Code in the normal course of events is regarded as a misdemeanour for which a maximum penalty of three years may be passed. Under the provisions in section 318A, inserted by clause 6 of the Bill, the offence is regarded as a crime, under the circumstances explained, deserving of the heavier penalty of 14 years. These are maximum penalties which, presumably, would be passed on a person convicted of assault on crews or passengers

in circumstances deserving nothing less than the maximum severity of the law. Obviously, it is a far more serious offence to assault a member of the crew of an aircraft than to assault in the circumstances referred to in section 318; for to assault a pilot, navigator, or engineer of an aircraft may result in disastrous consequences to the lives and safety of the passengers and crew, who may be numerous; and it well may endanger the safety of the aircraft itself, the cost of which in some cases is extremely high.

Honourable members may recall a recent case in Queensland where a passenger assaulted a T.A.A. pilot with an iron bar. Surely it would be absurd to be able to imprison a person for only three years in those circumstances. However, it must be remembered that the penalty of 14 years prescribed is the maximum penalty. It can be left safely to the judges to make the penalty fit the crime.

Before leaving this aspect of the Bill, it is pointed out that Victoria, for the same offence, has 15 years maximum; the Commonwealth, 14 years; and Queensland, 14 years. It is obvious there must be severe sanctions and deterrents for such serious crimes.

The Commonwealth has passed a sentence of punishment by death for the offence of destroying an aircraft with intent to cause the death of a person or reckless indifference to the safety of the life of a person. So much for penalties.

The Bill provides wide powers to enable the captain of an aircraft on flight, or any person authorised by him, to use such force as he believes on reasonable grounds to be necessary under the circumstances to maintain good order and discipline on board an aircraft. This is necessary for the safety of an aircraft equally as for the safety of a ship, whose captain is responsible for the vessel.

The Bill prohibits dangerous goods being carried on an aircraft, delivered to it, or in possession of a person on an aircraft, unless the consent of the owner or operator of the aircraft has previously been obtained. He would need to have full knowledge of the nature of the goods before giving permission for their carriage. Then there may be some law of the Commonwealth or State permitting the carriage of such goods, and this Bill would not overrule that law. The maximum penalty in respect of the carriage of dangerous goods unlawfully is seven years.

There is a specific provision for the offence of intentionally endangering the safety of persons travelling in an aircraft. For such an offence, the maximum could be imprisonment for life. Provisions covering the offence of assaulting members of the crew of an aircraft while on board the aircraft and so as to interfere with the performance of their functions and duties, has previously been referred to.

It will be remembered that not long ago an aircraft was stolen in this State. The Bill provides a maximum penalty of 10 years for stealing an aircraft. On the other hand, the unauthorised use of an aircraft could bring a penalty of seven years' imprisonment. In the event of another person being on board the aircraft at the time it was used without authority, a penalty of up to 14 years could be incurred if the offence was committed by a person without assistance from others. Should such an offence be committed in company or with violence, or by an armed person, life imprisonment could be incurred. The foregoing refers to aircraft piracy commonly known as hijacking.

Wilfully or unlawfully destroying or damaging an aircraft or anything connected with the navigation, control, or operation of the aircraft, similarly is regarded as a serious offence carrying a maximum penalty of 14 years. Threats made to the safety of aircraft and false statements relating to them, such as bomb hoaxes, which have not been infrequent in Australia in recent years and are a cause of much anxiety, expense, and inconvenience to aircraft operators and passengers, are covered by the Bill and serious cases could result in two years' imprisonment.

In clause 12, the person in command of an aircraft, or any person authorised by him, is empowered to arrest without warrant and with such assistance as becomes necessary, an offender whom he finds committing or whom he suspects of having committed or attempted to commit an offence affecting the use of the aircraft. If there are reasonable grounds for suspecting an offence involving the safety of the aircraft, the captain is empowered to place an offender under restraint or in custody or, should the aircraft not be in flight, to remove the person from it.

A justice may, where it appears on a complaint that an offence involving the safety of an aircraft has been committed, direct that any person on board be searched. Similar action may be taken if a person is caught in the act of committing an offence or is suspected of having an intention to do so. It is emphasised that a female may not be searched by other than a female.

There is also provision for searching luggage and freight, the aircraft itself, and any person about to board; and authority to seize anything it is believed could be used for the purpose of committing an offence and to place the matter before a justice to be dealt with according to law.

The Minister for Justice, when introducing this measure in another place, suggested it would be agreed that the dire consequences attending the destruction of a large modern passenger aircraft in flight call for the most severe penalties consistent

with those now imposed in the Criminal Code for similar offences. The penalties not only are similar to those in our Code; they are consistent with those provided in the Commonwealth Act and other States' Acts. We have ample evidence in Western Australia, through our own experience, for the need of this type of legislation.

I would like to add, in conclusion, that whilst some penalties might appear to be severe I think honourable members will, on reflection, realise that the offences involved are of great concern. With the modern trend towards bigger and faster aircraft, it is very important that the necessary power be given to the captain, the crew, and those who have to administer the law, to ensure there is proper machinery for dealing with these very serious offences that can involve great loss of life. Serious mishaps of this kind have not occurred in Australia, but there have been enough to make it clear that with the passage of time and the increased use of aircraft it could become a much more prevalent thing to be guarded against if possible.

Debate adjourned, on motion by Mr. Brady.

## DAMAGE BY AIRCRAFT BILL

### *Second Reading*

Debate resumed, from the 10th September, on the following motion by Mr. Court (Minister for Industrial Development):—

That the Bill be now read a second time.

**MR. HAWKE** (Northam—Leader of the Opposition) [8.22 p.m.]: I support the second reading of this Bill, which contains two main provisions. The first proposes to lay it down clearly that no action in respect of trespass or of nuisance shall lie by reason only of the fact that an aircraft has flown over a property, provided the height at which the aeroplane has travelled, and other circumstances, are reasonable, and as long as the regulations under the Air Navigation Act are being complied with.

The second important amendment has to deal with the claiming of damages by any person who suffers material loss or personal injury because of some accident caused by an aircraft, whether it be by the aircraft falling, or some part of the aircraft falling, or something falling from within the aircraft, causing material loss or damage to any person or property down below.

This claim is to be enforceable at law irrespective of whether there has been negligence on the part of the person operating the plane or the company which owns it. The only qualification to the making of a legal claim in this situation would be that the person who was injured

had himself been negligent in a contributory way and had therefore been partly responsible for any damage which he might have suffered in such circumstances.

Another amendment expands the definition of the term "article" to include liquid and liquid spray. It has been considered, according to information made available to us, that liquid and liquid spray have actually been covered by previous definitions, but there is no legal decision by any court in Australia holding that liquid or liquid spray is covered by existing definitions. Therefore, to make certain that liquid and liquid spray are covered by the term "article" as appearing in the legislation, they have been specifically mentioned in this Bill. It is unnecessary to emphasise how important it is that these commodities should be included in the definition.

The Minister, when introducing the Bill, told us that similar legislation was either operating, or had been introduced into the Parliaments of New Zealand, New South Wales, Victoria, and Tasmania. It became clear that no legislation of this type had been introduced into the South Australian Parliament or into the Queensland Parliament and that consequently no legislation of this type was operating or would apparently be operating in either of those States. I am wondering whether the Minister has any information he could give to the House as to the attitude of those two Parliaments in connection with this proposed legislation for Western Australia.

We were advised that the contents of the Bill had been approved by a meeting of Attorneys-General from all the States of Australia. Therefore South Australia and Queensland must have been represented at the conference in question by their respective Attorneys-General. I am wondering why it is that so far the Governments of South Australia and Queensland have not seen fit to introduce legislation similar to this into their respective Parliaments. I hope the Minister will be able to give us some information on that point, if not tonight, then before the third reading of the Bill is passed. I support the second reading.

**MR. GUTHRIE (Subiaco) [8.28 p.m.]:** Firstly I would like to say I support the Bill. As was mentioned by the Minister when he introduced it, the reason for its introduction is to give force to an international convention which I think was stated by the Minister to have taken place in Rome in 1952. In actual fact I think it took place in Rome in 1933; and in 1947 the United Kingdom Government passed this legislation. Therefore there is an obligation on the Australian States to give effect to the subsequent ratification of this convention by the Commonwealth of Australia.

It is somewhat interesting, in view of the controversy that is going on in New South Wales at the moment, that in this

particular instance, dealing with aircraft and giving effect to an international convention, the Commonwealth has seen fit to ask the States to legislate. It might be interesting in view of the Commonwealth's latest intention, as I understand the dispute between the Commonwealth and New South Wales at the moment, to recall that in matters of this nature dealing with air and where there is an international convention, the Commonwealth claims the right to legislate itself. It is just a little significant, or maybe its recent move in the dispute in New South Wales has come since the conference of the Attorneys-General in this matter.

This Bill does—and the convention did—set out to dispose of a point which has been the subject of considerable legal doubt; namely, the question as to whether or not an action for nuisance would arise through damage to person or property where a plane trespassed on the air space above a person's property.

The consensus of legal opinion, as set forth in Halsbury's *The Laws of England*—although it has never been authoritatively decided—is that there would not be any such action for nuisance unless there were circumstances where damage was done through the actual noise or vibration of an aircraft passing over the property, but the mere trespass of the air space in itself would not give rise to an action for nuisance. That has been in doubt, and the purpose of this legislation is to put that matter beyond doubt. Now the situation will be that there could be an action for nuisance only if a plane flies over at a height which is unreasonable in the circumstances of the case.

I should interpolate here to point out that this is legislation which has been accepted by international air lines; and therefore, in countries that ratified it, it would apply in all cases. It has therefore been accepted by international air lines such as South African Airways, Air India, B.O.A.C., and the other airlines that operate a service into Western Australia these days; and a similar liability would be accepted by our own international air line, Qantas, whenever it flies over countries where the convention has been ratified and legislation introduced.

The legislation contains an interesting provision; namely, in the case of a statutory right to sue, a person who is aggrieved can only sue in certain circumstances. The actual words of the Bill are as follows:—

Where material loss or damage is caused to any person or property.

It is of some interest to know what is meant by the words "material loss." It is interesting to observe that in Halsbury's *The Laws of England*, where it comments on the English measure which has similar

words in it, there is some doubt as to what that phrase will ultimately be construed to mean by the courts.

To my mind it is a pity that the international draftsmen, when they drafted this, did not use a phrase which could be beyond all doubt; but the fact of the matter is, that is the convention and it would be quite wrong for us to alter something which has been accepted in other parts of the world. I was looking for the actual phrase. I cannot lay my hands on it at the moment; but if I remember correctly, Halsbury's *The Laws of England* suggests that the word "material" means—here it is; I quote as follows:—

"Loss or damage" includes, in relation to persons, loss of life and personal injury . . . "Material" loss or damage connotes, it is thought, injury to persons or property which is of a physical nature;

Whether that is a good definition or not, I do not know. At first I thought the word meant substantial; but nevertheless that is the opinion expressed; and it could lead, some time in the future, to some litigation on the point.

I would point out to the House that in my view we should either accept this legislation or reject it; but in view of the fact that it is part of an international agreement, we should not attempt to alter it. However, I do warn the House that there could be some doubt as to what is meant by it.

On the subject of the negligence of a person who is injured, I would point out that it does not necessarily follow that such a person has no claim at all. He would have no claim under clause 5 of this Bill. Any Act of negligence of the person injured would dispose of that claim; but he would certainly still have his ordinary right of action against the aircraft operator if he could prove negligence on the part of the aircraft operator. The effect of that would be, under our contributory negligence legislation, that if there were negligence on the part of the injured person and there were negligence on the part of the aircraft operator, the responsibility would be on the courts to apportion damage between the two. Provided he can prove negligence, he does not simply go without a remedy.

But the need for making it a statutory claim is that where there is no negligence at all on the part of the aggrieved person, it is difficult for the injured person to prove negligence on the part of the aircraft operator. It is an extremely difficult matter to try to establish in some cases, if not most cases, what caused an aircraft to do a particular thing, whether it crashed or whether some part of it fell off.

We could take, as an example, the incident when an aircraft dropped its engine over Port Phillip Bay. I do not suppose

anybody could say with certainty what were the circumstances that led up to that aircraft dropping its engine. We could take another incident closer to home, where a Dove aircraft crashed close to Kalgoorlie. A wing fell off and it was subsequently found that it had developed metal fatigue in a place where no normal maintenance would disclose it. However, metal fatigue had developed. It would be a fair defence by the airlines company, if it had been sued, that it could not be said to have been negligent in the case of something of which it was not aware or able to foresee; and, in any event, for something which inspections by the proper authorities of the Commonwealth Government had failed to reveal.

If I remember the facts of that case, the incidence of metal fatigue was only discovered by actually dismantling a plane and taking a wing out of the fuselage of another plane. By doing this the authorities discovered through some chemical process that cracks had developed.

Those are the difficulties in the way of any person who endeavours to sue an air company for negligence; and all that will be disposed of, as clause 5 does, or will, in 99 cases out of a hundred, do away with that necessity. In other words, it will give an injured person the right of action if he is the person on the ground who suffers as a result of an air crash or suffers from something falling from an aircraft. I support the Bill.

**MR. FLETCHER** (Fremantle) [8.38 p.m.]: After hearing various speakers and the member for Subiaco mention legal rights within the Bill as a consequence of certain damage suffered, the thought occurs to me about supersonic aircraft. Damage has been caused in England by these aircraft, and damage could conceivably be caused here in Australia through the creation of what is known as the sonic boom, which creates air vibration to such an extent that it has broken closed windows in residential areas of England.

I have not enough legal experience to interpret within the Bill whether provision is made for such a contingency. The Mirage aircraft, which we have recently acquired, can fly well in excess of the speed of sound; and I understand that the sonic boom arises as a consequence of the aircraft passing in excess of the speed of sound. In doing so, there is set up these air vibrations which can cause damage in a residential area in the manner that I have described.

Another thought which occurs to me is that people have claimed that they have suffered damage to their eardrums as a consequence of sonic booms. Those honourable members who live near a highway will be familiar with air vibration which is set up by diesel trucks when they are

climbing. Those vibrations rattle the windows of the houses in the vicinity of where the trucks are operating. I mention that illustration to show that even a diesel truck can disturb the atmosphere, and it occurs to me that the sonic boom from an aircraft could do damage in excess of only breaking windows. I assume that this Bill would not give any right to claim for such damage.

Mr. Guthrie: This Bill does not deal with that aspect. It deals only with objects falling from aircraft.

Mr. FLETCHER: I did notice that in the case of falling objects the owner, and any person hiring an aircraft, are both equally liable in that respect. However, since the Bill does mention damage which is caused by aircraft, I was hoping the Minister might see wisdom and cause an amendment to be adopted making provision for damage caused to property as a consequence of sonic booms. I mention that point in passing and I hope the Minister does make some provision entitling people to claim for such damage.

MR. COURT (Nedlands—Minister for Industrial Development) [8.41 p.m.]: In reply to the comments which have been made by honourable members, I would firstly refer to those of the Leader of the Opposition. Incidentally, I thank all the honourable members concerned for their support of the Bill. I will have some inquiries made through the Minister for Justice to see if there are any special reasons why Queensland and South Australia have not yet introduced their legislation. To the best of my knowledge those States have undertaken to conform. It will be appreciated that, as was explained and emphasised by the honourable member for Subiaco, this legislation has an international flavour, and it is therefore very important that it be adopted in approximately the same form as that adopted by the other States and other countries.

It is also important that as many countries as possible adopt this legislation in view of the greatly increased incidence of aircraft travel both interstate and intra-state, to say nothing of the international and overseas travel. The matter was the subject of discussion at the conference of the Attorneys-General and I would be surprised if the Minister for Justice brought down this legislation without being satisfied that all the States referred to were going to introduce similar legislation. I will endeavour to have this information in time for the third reading so that I can inform the House accordingly.

The honourable member for Subiaco referred to the legal complexities of the word "material" in clause 5 of the Bill. Of course, he went on to explain that there is an international flavour in the drafting of the Bill and there may be

some query as to how this section is to be interpreted. I am afraid we will have to leave it to be interpreted by the courts at the time of a claim, because it would be rather undesirable if we departed from what has been obviously adopted generally. I sincerely hope it will not be a lawyer's bonanza.

Mr. Guthrie: I might hope that it will be.

Mr. COURT: One never knows. I will mention the matter to the Minister for Justice and the Crown Law Department and inquire whether they conferred with the other States and the Commonwealth on this point.

The problem raised by the honourable member for Fremantle will also be referred to the Minister for Justice and his advisers, but I want to state my own understanding of the legislation. There is nothing in this Bill that is intended to deal specifically with the point raised by the honourable member. In fact, clause 4 rather goes out of its way to make sure that matters are not introduced which are undertaken within the prescribed method. Clause 4 reads as follows:—

No action lies in respect of trespass, or in respect of nuisance, by reason only of—

- (a) the flight of an aircraft over any property at a height above the ground that, having regard to the wind, the weather, and all the circumstances, is reasonable; or
- (b) the ordinary incidents of such a flight,

And these are the important words—

so long as the Air Navigation Regulations are complied with.

In other words, my understanding is that if an aircraft is operating within the law as laid down in the Air Navigation Regulations, and in any other appropriate legislation, then there would be no claim for damages. I assume that an aeroplane breaking through the sound barrier would be, in normal circumstances, operating within the Air Navigation Regulations, and would therefore be covered by clause 4.

Nevertheless, there is nothing in this measure which will prejudice a person who might suffer some injury because of a plane breaking the sound barrier. The position is no better and no worse because of this legislation. However, in view of the general interest on the point raised, I will ask the Minister for Justice if he has any observations to make, or if there is any reaction from the Attorney-General on this point.

I can only emphasise that with aircraft flying internationally as much as they do today, we have to try to keep up with the times, and I think legislation of this nature is timely. I thank honourable members for their support.

**Question put and passed.**

**Bill read a second time.**

*In Committee*

The Chairman of Committees (Mr. I. W. Manning) in the Chair; Mr. Court (Minister for Industrial Development) in charge of the Bill.

**Clauses 1 to 3 put and passed.**

**Clause 4: Limitation of liability in respect of trespass or nuisance by flying over property—**

Mr. BRADY: I agree with the clause in the main; and I am not here to put any obstruction in the way of the Minister. What I am concerned about is whether the State has any opportunity, when regulations are being framed by the Commonwealth, of being able to make representations in regard to the regulations. If not, can the Minister tell us the procedure? I could speak on other aspects of the clause but I do not intend to do so at the moment. Perhaps the Minister can explain the point I raised.

Mr. COURT: Any matters of air navigation regulations are essentially a Commonwealth responsibility. To the best of my knowledge, the State would not normally be involved in the framing of those regulations. However, if the State Government—and I suggest any State government for that matter—finds there is anything which is unsatisfactory to the local populace, then under the normal system of liaison between the Commonwealth and the States, representations would be made.

I think there are cases where this has been done in connection with the methods of operating aircraft in and out of major airports. However, so far as the actual legislative responsibility is concerned it rests with the Commonwealth; and I do not think there is any need to interfere with that so long as the State Government is satisfied that the needs of the populace are being reasonably protected, and conform with modern aircraft in their operation.

**Clause put and passed.**

**Clause 5: Liability for damage by aircraft or articles, etc., falling from an aircraft—**

Mr. BRADY: I think we all agree with this clause, but I would like to point out that a greater number of aircraft are being built and flown these days. I read in the Press, only the other day, where a company in New South Wales is building five aircraft a week, and it is selling most of them. It is now in the position of being able to export its product.

Also there are companies operating in this State whose pilots are flying aircraft over different properties dropping insecticides to keep down pests. It may be that in the future the Government, and this Parliament, will be called upon to make a

decision whether people adjacent to properties which are being treated have some redress for damage. Is the department giving any consideration to protecting people in this regard? Because while insecticides may be killing pests on one property they could be causing damage on other properties where people may be growing vegetables in intense-culture areas. In some cases that has already happened.

In view of the Commonwealth's desire to take over intrastate air activities, can the Minister give us any information whether these aspects will be investigated, and whether every effort will be made to protect the interests of the State in these matters?

Mr. COURT: I think the matter referred to by the honourable member is outside the objective of the Bill. One case in Western Australia comes to mind quite readily and the particular question was the subject of litigation. These people have rights at law where they feel that because of this type of activity—that is, the spraying of crops—they have an action for damages, but I do not think it was ever intended that those cases would be dealt with under this legislation. However, I will ask the Minister for Justice about it and the other queries that have been raised, and report when the third reading is being moved whether there are any current discussions taking place for any statutory amendments which will deal specifically with the question of crop spraying.

**Clause put and passed.**

**Title put and passed.**

*Report*

**Bill reported, without amendment, and the report adopted.**

**PUBLIC TRUSTEE ACT  
AMENDMENT BILL**

*Second Reading*

**MR. BRAND** (Greenough—Premier)  
18.55 p.m.]: I move—

That the Bill be now read a second time.

This Bill amends section 40 of the Public Trustee Act. This section at present provides that all capital moneys vested in the Public Trustee shall become one common fund unless it is directed that any particular moneys be specifically invested otherwise. Accordingly, investments made from the fund shall not be made on account of or belong to any particular trust or estate. There is a further provision that interest earned by such investments shall be paid into the common fund.

Subsection (4) of section 40 sets out the manner by which estates whose moneys form a common fund shall benefit. This section refers to a rate of interest payable

to the respective estates, and so by inference differential rates are not provided for under this subsection at present. The rate is fixed by the Public Trustee with the approval of the Minister. That is set out in subsection (4). Reference was made earlier to the specific investment of particular moneys. The provisions contained in subsection (5) cover these, but it is subsection (4) with which this Bill deals.

The bulk of common funds investments are in Commonwealth and S.E.C. inscribed stock, with a small balance being on mortgage and advances to estates. The Bill authorises the Public Trustee, with the approval of the Minister, to fix different rates of interest, having regard to the periods and conditions under which moneys are held.

Prior to 1953 interest was credited at a uniform rate to all estates and trusts, including deceased persons' estates in course of administration. On the 1st May, 1953, rates were fixed with the approval of the then Minister to credit various classes of estates with interest at different percentages as follows:—

Estates of mental patients	2 per cent.
Deceased estates in course of administration	1 per cent.
Minors	2½ per cent.
Agent or attorney	2½ per cent.
Court trusts and others not otherwise prescribed	2 per cent.

The gradual upward trend in earnings permitted revision of rates to be made in April, 1955; July, 1956; January, 1959; October, 1961; and October, 1962. The prevailing rates of interest credited to estates as at the 15th June last were—

Mental estates and agency trusts	4 per cent.
Deceased persons' estates in course of administration	1 per cent.
Court trusts, minor trusts, deceased (in state of trusteeship), workers' compensation, and others not otherwise prescribed	4½ per cent.

The current practice followed the established principle that moneys invested for long periods should receive higher rates of interest than moneys held for short terms.

Moneys held by the Public Trustee can be classified into categories which are entitled to different rates of interest. These include amounts held during course of administration which are at call; moneys received in the administration of the affairs of mental patients, which according to experience may be considered as medium term; amounts held on behalf of minors under trust; and court awards requiring

longer term investment. Therefore, it is reasonable to authorise a practice which has been in operation since the 1st May, 1933, and is common to the practices of Public Trustees in other places.

The practice being followed here is in line with that operating in other States. Surplus earnings, after credits are made to the estates, are passed direct to revenue or to the Public Trustee Office in New South Wales and Victoria to assist in meeting the costs of administration of the Public Trust Office.

The work carried on by the Public Trust Office here is to a great extent a social service entailing considerable unprofitable work such as small estates of deceased persons, mental estates, investment of workers' compensation moneys, and so forth. It will be appreciated that without the surplus earnings of the common fund, our Public Trust Office—as would be those of other States—would be a severe drain on the Treasury. Commissions alone are insufficient to cover expenses of private companies operating in this sphere of activities, but rents and interest presumably from the companies' capital investment, meet their needs. In a similar manner, the surplus earnings of the common fund of the Public Trust Office provide the necessary funds to cover administration expenses.

However, there is no provision in the Public Trustee Act in this State authorising the payment to the Consolidated Revenue of the undistributed portion of the interest earned by investments from the fund. The absence of such authority attracted the attention of the Auditor-General. There is also no provision for different rates of interest, and so there is no authority for the present practice, which has operated since 1953, of declaring differential rates of interest at such figure as to leave a surplus in the fund, which, since that time, has been regularly paid into the Consolidated Revenue Fund.

It will be seen that in paragraph (b) of clause 2 is the machinery for the crediting of estates with interest at the rates authorised by paragraph (a). Authority to pay Public Trustee surplus common fund interest into Consolidated Revenue is contained in paragraph (c) and has, as previously indicated, been the practice followed under successive governments since the Public Trustee Office commenced operations.

Interest is allowed on the minimum monthly balance held on account of each trust, and this method used by savings banks can be considered reasonable. As common fund moneys are kept closely invested, a surplus arises in respect of amounts which are held for less than a complete month and there is some justification for transferring such surplus to Consolidated Revenue. There is also a

surplus between the average earning rate and the rate allowed on estates in course of administration; and as persons placing business with the Public Trust Office are aware of the prevailing rate of interest allowed, it is also reasonable to similarly allow the payment to Consolidated Revenue.

Other Public Trust Offices generally have provisions under their Acts to pay surplus interest to revenue to avoid the offices operating at a loss, as has been previously explained. Such action is necessary because of statutory obligations placed on Public Trustees to undertake work of a social service nature, as already mentioned.

The amendment in subclause (2) of clause 2 has been inserted in the Bill to validate past practices of the Public Trustee in allowing interest at different rates and paying the surplus interest into Consolidated Revenue. The Auditor-General has expressed doubts since 1953 about the powers of the Public Trustee to pay the surplus interest into Consolidated Revenue.

It may be desirable to mention that the operation of a common fund confers the advantages of steady and continuous interest returns, security of Government guarantee, and ready availability of funds for the estates participating. The current rates of interest paid in this State compare more than favourably with the rates paid under similar circumstances in other States, and no commission is charged on these interest payments by the Public Trustee.

It was decided to introduce this Bill in order to legalise the practice which has been followed for some years now; and in order to protect all interested parties in respect of the practices which have been in operation since inception, the provision for retroactivity of the amendments to the date of the commencement of the parent Act has been included.

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

## NATIONAL TRUST OF AUSTRALIA (W.A.) BILL

### *Second Reading*

Debate resumed, from the 13th October, on the following motion by Mr. Brand (Premier):—

That the Bill be now read a second time.

**MR. HAWKE** (Northam—Leader of the Opposition) [9.6 p.m.]: A Bill similar to this was before us two years ago. The measure, on this occasion, is the same, word by word, as the one in 1962. At that time the contents of the Bill were quite exhaustively discussed in this House. A very strong difference of opinion arose then on the measure of representation

to be given to the Western Australian Historical Society, which was to be given only one representative on the proposed council. Some honourable members—I was one of them—considered the Historical Society was entitled to much greater representation because the total membership of the council was to be 25.

We pointed out that, for many years previously in Western Australia, the Historical Society had carried out quite valuable work in the preservation of, and in trying to preserve, many historical monuments—mainly establishments which had the history of Western Australia, to some extent, written in them; whereas the other organisation which was mainly concerned under the provisions of the Bill had only come into existence comparatively recently, prior to the introduction of the Bill into this Parliament in 1962, and had, as far as could be ascertained, done little or no practical work along the lines of the fairly substantial practical work which had been done in the field by the Historical Society.

It was obvious, too, that at that time there was some considerable dissatisfaction on the part of at least some members of the Historical Society at the representation which was to be given to the society on the council which was proposed under the Bill at that time. As we know, it became clear to the Premier, who was in charge of the Bill—as he is now of this measure—there was some deep-seated dissatisfaction; and, as a result of it all, it was decided by the Government finally to allow the Bill to lapse, and nothing further was done about it. Now, this year, we have the Bill currently before us, and it sets out the same system of representation for the Historical Society and for all the other groups and organisations which are to have representation on the council with its proposed total membership of 25 persons.

However, on this occasion the Premier has assured the House of the complete support of the members of the Historical Society for the Bill in the form as now presented. I am not quite clear as to how this assurance came to the Premier.

**Mr. Brand:** By letter.

**MR. HAWKE:** The Premier assures us that the assurance came on official note-paper, presumably, from the society, and represented the unanimous view of the members of the society. Therefore, it appears clear that on this occasion there is unanimous agreement within the Western Australian Historical Society, and as between it and the other major organisations concerned. Whether this would indicate that the major society is to absorb the membership of the historical society or whether that has in fact already taken place I do not know.

However, it would appear there is this agreement with the two major organisations, and it would seem that they now totally and unanimously approve the provisions of the Bill which is before us. In that situation it seems to me there is no room for controversy. The provisions of the Bill have the general approval of members on this side. As we debated the Bill fully two years ago and as the measure today is word for word the same as the one two years ago, there would appear to be no reason why any lengthy debate should now take place. Therefore I content myself with saying that the Bill has my support.

**MR. BRAND** (Greenough—Premier) [9.13 p.m.]: I would just like to say that on paper letterheaded the Royal Western Australian Historical Society (Inc.), 49 Broadway, Nedlands, I received an assurance from Mr. Birtwistle, the president, on the 12th August, 1964, that the society was happy to reaffirm the terms of its letter to me of the 26th October, 1962, which was written following some of the difficulties that developed between the societies at that time, and which caused the Government to drop the Bill. I do not know how they resolved their difficulties, but both are happy to see this Bill go forward and trust that it will become one of the laws of the State.

I thank the Leader of the Opposition for his support of the measure.

**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.**

### **FREMANTLE BUFFALO CLUB (INCORPORATED) (PRIVATE) BILL**

*Second Reading*

Debate resumed, from the 8th October, on the following motion by Mr. Fletcher:—

That the Bill be now read a second time.

**MR. COURT** (Nedlands—Minister for Industrial Development) [9.20 p.m.]: On behalf of the Government I wish to say we support this Bill. The matter has been examined by the Registrar of Companies, and it is as well that I should record very briefly his comments. They are—

The Fremantle Buffalo Club is but one of several bodies the members of which have sought the assistance of Parliament, by way of a Private Act, to cease to be members of a company under the Companies Act of the day

and to become members of an association incorporated under the Associations Incorporations Act, 1895-1962. Some of the other bodies are—

The Collie Club Limited,  
The West Australian Buffalo Club Limited and

The West Australian Club.

Perhaps the greatest practical difficulty which a body, that is by nature a club, but which is incorporated as a limited company, encounters is that of reconciling the status of shareholders in a company with that of the members of a social club.

The shareholder in a limited company is obligated to hold at least one share in the company and the nominal amount of that share must at some time be paid to the company as paid-up capital. On the other hand the member of a club is usually liable under the constitution of the club to pay an annual subscription to that club and continuation of membership depends on the continuation of those annual payments.

The interest of a shareholder in a company is normally transferable but the interest of a club member is not usually transferable. These conflicting factors are, no doubt, the cause of trouble in the Fremantle Buffalo Club as to its membership.

The Bill provides for the transfer of the assets (together with the liabilities) of the company to an association in an identical name and allows the company to be dissolved without the formalities of a winding-up.

I support the Bill.

**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.**

### **PARLIAMENT HOUSE SITE PERMANENT RESERVE (A<sup>1</sup> 1162) ACT AMENDMENT BILL**

*Second Reading*

**MR. WILD** (Dale—Minister for Works) [9.23 p.m.]: I move—

That the Bill be now read a second time.

As has been said on previous occasions when other Bills of this nature have been introduced, this is only a small measure; but none the less it is a very necessary one.

As honourable members are aware, the area occupied by some public buildings is a Parliament House reserve, and it is necessary that Parliament grant permission for those buildings to remain on the reserve.

In 1956 permission was given for these buildings to remain for three years, and in 1959 permission was given for them to remain for a further five years. It had been hoped on each of these occasions that the Bill presented would be the last, but because of lack of finance it has not been possible to provide alternative accommodation for the departments occupying these buildings.

This is still the case, but at this point of time we are in a position where we know with reasonable certainty that alternative accommodation will be available within the next three years. Honourable members can see one of these buildings under construction at present, and another building is planned, and it is hoped work will commence in the near future.

We would not ask Parliament for the additional extension of time if it were not necessary, and I feel sure that this is the last time that such a measure will be necessary. I therefore commend the Bill to the House.

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

## ADMINISTRATION ACT AMENDMENT BILL

### *Second Reading*

**MR. BRAND** (Greenough—Premier)  
[9.30 p.m.]: I move—

That the Bill be now read a second time.

The passing of this Bill would be of much assistance in facilitating the administration of estates in particular. Many of its provisions have been drafted with a view to improving administrative procedures.

Under section 28 of the Act, sureties to administration bonds may be dispensed with in certain cases. In the circumstance of a person dying and leaving property not exceeding £1,000 in value, for instance, and administration being granted to the husband or widow of the deceased, the dispensation applies.

The amendment in clause 2 of the Bill lifts this amount to £2,500. The value of property lawfully passing to the husband or widow in an intestate estate was raised to £2,500 in 1953; and this is the main reason for amending the law dispensing with sureties to the administration bond (section 14 of the Act refers.) It does not grant exemption from duty nor does it entitle a beneficiary in an intestate estate to any greater share of a house or other assets. The proposed amendment merely brings the provisions of section 28 into line with the current shares of an intestacy available to a husband or widow and simplifies applications for administration of these estates.

Under section 62, the seal of the court shall not be affixed to any foreign probate or administration papers until the specified duties and fees have been paid; that is, the fees that would have been payable or required if such had been originally granted by the court and a bond entered into by the executor, administrator, or attorney. On the strict construction of this section, it would appear that a probate or administration should not be resealed unless the duty has been actually paid and, furthermore, that the provision for the securing of duty to the satisfaction of the commissioner has no effect in the case of a resealing. The section is being amended, therefore, to provide for the cases in which duty is secured or part paid and in part secured as indicated in subsections (2) and (4) of section 71.

The amendment in clause 4 provides for the appointment of a deputy to the Commissioner of Probate Duties. At present appointments may be made from time to time under the Interpretation Act to cover foreseeable absences of the commissioner on leave, etc. It is thought preferable, however, to provide in the Administration Act itself for the appointment of a person as deputy who can act forthwith in the absence of the commissioner.

Clause 5, amending section 60, deals with the filing of statements by an executor or administrator. As the section reads at present, persons are required to lodge the statement of assets and liabilities in the office of the commissioner. In point of fact, they are filed in the probate office of the court and supported by affidavit. The proposed amendment in the Bill effects a procedural alteration relative to the filing of duty statements to conform with the existing practice.

Under section 67, the court is permitted to order the filing of a statement in respect of the estate of a deceased person, should the commissioner be dissatisfied with it. In that event the commissioner is empowered to assess duty payable on the estate. It is proposed that this section be repealed and re-enacted because, for one reason, the section, though it empowers the court to order a statement to be filed, does not provide for any order in regard to a statement with which the commissioner is dissatisfied. One of the problems overcome by the proposals in clauses 6 and 10 with respect to sections 67 and 125 respectively is the power to enforce answers to requisitions. Such powers would be better placed under section 125. The Bill proposes this, thus enabling portion of section 67 dealing with unsatisfactory statements to be deleted.

Probate, or letters of administration, may not be issued until the duty is paid. This is contained in subsection (2) of section 71, but there is contained in section 69A power to remit or postpone payment

of duty in certain cases of estates when the finally assessed balance does not exceed £10,000.

As a consequence, it is intended to provide in section 71 that the probate or letters of administration can issue where duty has been deferred in accordance with the provisions of section 69A. This is a consequential amendment which appears in clause 7.

The amendment in clause 8 will permit an increase in the rate of interest on unpaid duty from 4 per cent. under section 108 to such rate not exceeding 10 per cent. per annum as the Treasurer may, from time to time, declare. The interest here referred to is that charged on all duty payable under the Act from and after the expiration of three months from the time when the duty first becomes chargeable until it is paid. This interest is, in fact, regarded as part of the duty imposed.

It should be pointed out, however, that interest is not charged on deferred duty during the period of deferment. Additionally, the commissioner has discretionary power in the postponement of the date from which interest shall be charged.

It is suggested by way of explanation, that the statutory rate of 4 per cent. enacted in 1934 is now quite inadequate for the purpose of the section, which is to prevent undue delay in payment of duty. Compared with the current much higher rates which a trustee can receive from investment, the existing rate of 4 per cent. now provided is so low that sometimes it is considered by those concerned in the administration of estates to be to the advantage of the estates to defer payment of duty, despite the application of the penalty rate. Such deferment is, of course, detrimental to all reasonable requirements necessary to facilitating the administration of estates.

In some other States, the much higher rate of 10 per cent. is operative, but, as such a high rate is not considered to be warranted here at the present time, the figure of 10 per cent. inserted in the Bill is a maximum rate. The present practice of computing the rate three months from the date of assessment is to be continued. In some States, it is computed from the date of death.

The ninth clause contains an amendment lifting from £200 to £1,000 the duty-free value of any shares in the name of a deceased person, stock, debentures, money on fixed deposit, etc., policy of life assurance, together with any bonus or benefits payable thereunder. This section was incorporated in the Act of 1934 with a view to preventing custodians from transferring assets of a deceased estate to a nominee or other person without citing a certificate from the Probate Office.

The limit of £200, operative from the 1st January, 1935, was based on the fact that estates of a net value of £200 or less were exempt from duty. Since that time, the law has been amended to increase the limit of exemption to £1,000. Therefore it is logical to permit the transfer of assets up to this figure without the production of a certificate that duty has been paid or satisfactorily secured. The purpose of the next amendment was mentioned when explaining clause 6 amending section 67. The amendment in clause 10 has been inserted in the Bill to extend the effective powers of the commissioner under section 125 to ascertain ownership and any pertinent facts necessary for him to carry out the provisions of that part of the Act relating to duties on deceased persons' estates.

The overall powers of inspection of land, buildings, and documents as laid down are considered appropriate for use only in extreme circumstances. There are, however, always some persons who are dilatory in replying to requests and this causes additional and quite unnecessary work, and impedes not only the administration of the particular estate, but other estates also. The re-enacted section, while retaining the full powers of inspection, makes the further provision by which the commissioner may require any person by written notice to furnish the information required under a penalty of a £200 fine.

Bank deposits not exceeding £50 may be paid to the widow or next of kin without probate or administration under section 139 of the Act. There is provision for a tentative period of three months' delay, together with notification to the Public Trustee—presumably because on death a person's estate vests in the Public Trustee and he might be required to administer the estate.

The amendment in clause 11 increases the amount of such bank deposits as may be paid out by a bank after the three months' delay to £200, if no probate or administration is produced during that period.

A similar provision already exists in section 655 of the Rural and Industries Bank Act to the effect that when a client dies leaving any money not exceeding £200 standing to his credit in a savings bank account and probate or administration is not produced to the commissioner within one month after his death, the commissioners may apply the money in certain directions. These are towards the funeral expenses or their reimbursement, and in payment of the balance, if any, to the widow or relative or such other person as the commissioners think fit.

Section 40 deals with the records to be kept by the Master of the Supreme Court, such as grants of probate, administration, and orders, etc. The addition of the new

subsection contained in clause 12 will enable the issue under seal of office copy grants with or without the relative will annexed. Such copy grants will constitute sufficient evidence of the grant for all purposes without further proof. Under certain Acts—the Uniform Companies Act, for instance—it is necessary to produce evidence of grants of probate. A simple copy of the grant without words of the will is all that would be required since a company is only concerned with legal titles and not with the trusts of a will.

I think it might be appropriate to mention at this point that the honourable Mr. Griffith stated in another place, during the Committee stage of this Bill, that when administrative changes were being made, the view of the Chief Justice, judges, or the Master of the Supreme Court, are obtained as frequently as possible. Honourable members may be assured this Bill is no exception in that regard.

To revert to clause 12, it is not possible at present to obtain a copy of a grant of probate in this State without the whole of the words of the will being attached. The fee for such a document is often relatively substantial. It is considered desirable, for reasons of convenience, expediency, and economy, therefore, to include this new authority to issue copy grants.

The last amendment affects section 144 governing the rules of court as set out in the third schedule of the Act. Under this section, judges of the Supreme Court may make rules prescribing, subject to limitation, what part of the business which may be transacted and of the jurisdiction which may be exercised by a judge in chambers or may be transacted or exercised by the master or other officer of the court. The removal of the restriction as proposed in clause 13 will bring procedures into line with those in other States.

As mentioned earlier, this measure has as its objective the smoothing out of procedural difficulties in the administration of estates in the main, and it is hoped that these difficulties will be overcome by the passing of the Bill.

Debate adjourned, on motion by Mr. H. May.

## STATE HOUSING ACT AMENDMENT BILL

### *Second Reading*

MR. ROSS HUTCHINSON (Cottesloe—Chief Secretary) [9.45 p.m.]: I move—

That the Bill be now read a second time.

This Bill is presented with the object of maintaining the existing high level of home ownership as developed in recent years under the State Housing Act, 1946-61 for families of moderate means as defined and declared eligible under that legislation.

As the Act now stands, advances and building costs are limited to £2,500, which amount was fixed in 1951 when building costs were much lower than at present. This restricted amount also fails to recognise the initiative of those applicants who purchase and provide their own home-site as security and are only seeking the commission's financial assistance to build; whereas those who rely entirely upon the commission for both house and land are assisted with up to £2,750 in respect of the improvements together with the value of the land on a deposit of £100, which can be less where circumstances so warrant.

Having regard to the higher cost of building the current types of commission homes both in the metropolitan area and country centres, the need to ensure equitable consideration to those providing their own land and to bring the level of building costs more into line with those levels prescribed under other legislation—such as the Commonwealth War Service Homes Act, under which the maximum advance is £3,500; and the Commonwealth-State Home Builders Fund, under which building societies can advance up to £3,250—the Government has decided to lift the statutory limit of advance or building cost to £3,000.

In 1945 a special provision was introduced to allow financial assistance to workers endeavouring to build or buy a home. Subsequently, the level of assistance was increased to allow for costs or values to be brought into line with rises in the cost of homes. The last amendment was in 1961 when second mortgage assistance could be extended where the cost of a new home to be built or completed, or, alternatively, the value of a newly erected home, did not exceed £3,300.

In order to continue to assist people who might have otherwise been precluded from owning homes of their own choice, the Government feels it is now necessary to set the limit of cost or value at £3,500. Accordingly, an amendment to give effect to this decision is incorporated in the Bill. The commission has made available each year for some time past an amount of £100,000 for this purpose, but in 1962-63 it was increased to £200,000.

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

## STATE HOUSING ACT AMENDMENT BILL

### *Message: Appropriation*

Message from the Governor received and read recommending appropriation for the purposes of the Bill.

## CHIROPRACTORS BILL

### *Council's Amendments*

Amendments made by the Council now considered.

*In Committee*

The Chairman of Committees (Mr. I. W. Manning) in the Chair; Mr. Ross Hutchinson (Minister for Health) in charge of the Bill.

The CHAIRMAN: Amendment No. 1 made by the Council is as follows:—

No. 1.

Clause 18, page 9, line 3—Delete the passage “, degrees”.

Mr. ROSS HUTCHINSON: There were four small amendments made in another place. The Government does not oppose them, and I do not think the Committee will have any reason to oppose them. Two of the amendments are similar, and the other two are not of any great consequence. With regard to amendment No. 1 the passage referred to is considered unnecessary because it has about it a university connotation. I move—

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

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

The CHAIRMAN (Mr. I. W. Manning): Amendment No. 2 made by the Council is as follows:—

No. 2.

Clause 18, page 9, line 20—Insert after the word “professional” the words “and ethical”.

Mr. ROSS HUTCHINSON: It is recommended that the board should prescribe professional and ethical standards to be maintained by chiropractors. I see no reason why the amendment should not be agreed to. I therefore move—

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

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

The CHAIRMAN (Mr. I. W. Manning): Amendment No. 3 made by the Council is as follows:—

No. 3.

Clause 18, page 9, line 31—Delete the passage “, degree”.

Mr. ROSS HUTCHINSON: This amendment is consequential upon the first amendment already agreed to by the Committee. I move—

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

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

The CHAIRMAN (Mr. I. W. Manning): Amendment No. 4 made by the Council is as follows:—

No. 4.

Clause 20, page 10, line 19—Delete the words “any of”.

Mr. ROSS HUTCHINSON: It is the unanimous opinion of honourable members in another place that these words should be deleted, and the Government has no objection. I therefore move—

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

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

*Report*

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

House adjourned at 9.54 p.m.

## Legislative Council

Tuesday, the 20th October, 1964

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