Mr. Hawke: Something like the five-day legislation for the banks.

Mr. TONKIN: —having regard to some of the opinions expressed by the Minister when I first introduced legislation on this subject into the House.

Mr. Ross Hutchinson: They would bear reading. I would like to hear some of them.

Mr. TONKIN: The Minister has access to *Hansard*, the same as I have, and it might do the Minister good to read it. However, I am always prepared to applaud a man who will change his mind if there is a good reason for doing so. We never get progress without it. Therefore, provided we set up a board which will not be a biased board, and will not be under the control of one group—I do not think we should have that for one moment—and provided we make some provision for admittance to registration of those persons who have satisfactorily practised chiropractic, I think we should pass the Bill.

I should not imagine that any members of the Royal Commission would be doubtful, but if there are any members of this Assembly who are doubtful, let them remember that for some time now insurance companies have elected to send injured workers to chiropractors in the certain knowledge that those injured workers would return to work sooner—by receiving treatment from chiropractors—than if they continued to have ordinary medical treatment. Also those insurance companies do not hesitate to pay the charges involved, and they consider that they have made a profit by so doing. What I am stating is absolute fact.

In lighter vein, the football clubs who desire to get their injured players back on to the field without much loss of time resort to the experience of chiropractors to help them. So it is well recognised that chiropractors render a very valuable service. However, there are two unfortunate features about one availing oneself of the services of a chiropractor. The man who attends a chiropractor receives no rebate in his taxation for the fee he has paid. If he visits a doctor he can claim medical expenses as a taxation rebate; but if he goes to a chiropractor and gets well quicker than if he went to a medical practitioner, he cannot claim in his taxation deductions for any money so spent.

That is a definite weakness in the situation, and I hope we can remedy it; because as soon as we recognise that this is a worth-while service being rendered to the community, I think we ought to provide that the person who is involved in the expenditure of using the services of a chiropractor should have that expenditure recognised by the Taxation Department, in the same way as his medical expenses are recognised. Because of the possibilities of this legislation, I am delighted it has arrived. However, I would like to see it improved, and I think we can do so if we approach it in the right and reasonable way.

Mr. Ross Hutchinson: I am a reasonable man.

Mr. TONKIN: I can assure the Minister he will find me most reasonable in regard to this legislation.

Debate adjourned, on motion by Mr. Guthrie.

House adjourned at 5.24 p.m.

Legislative Council

Tuesday, the 8th September, 1964

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CONTENTS—*continued*

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

QUESTIONS ON NOTICE

KALGOORLIE-ESPERANCE LINE

Effect of Standard Gauge on Freights

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

(1) Was the Minister for Railways correctly quoted recently when it was stated that the goods transported either way over the Kalgoorlie-Esperance line at the cost of 50 extra miles because of the standard gauge line bypassing Coolgardie, would not be charged additional freight rates?

(2) If so—

(a) what will this extra 50 miles cost the Government railways in operating costs;

(b) what will the cost be in loss of revenue in freight charges that the extra 50 miles would normally entail?

The Hon. A. F. GRIFFITH replied:

(1) Yes.

(2) (a) and (b) It is essential that the honourable member appreciates that if the proposed standard gauge line between Koolyanobbing and Kalgoorlie is diverted into Coolgardie all main line traffic from 1968 onwards both to and from Kalgoorlie and the Eastern States will have to be hauled an additional seven miles in each direction.

The ratio of main line traffic to Esperance branch traffic which would have been hauled had standard gauge working been in operation during the financial year 1963-64 was approximately 14:1 and with the advent of standard gauge working this proportion will become even more marked.

At this stage it is not possible to make estimates based on traffic to be hauled after 1968, but when the foregoing is considered in conjunction with the cheaper operating costs which will be effected the saving in charges which would be raised on the capital cost of construction of the diversion and the lower tonnages on the Kalgoorlie-Esperance section when superphosphate is produced at Esperance and more of the region's produce goes out of Esperance port, it will be clearly seen that the proposed working is by far the most economical.

TECHNICAL ANNEXES

Establishment and Upgrading

2. The Hon. J. M. THOMSON asked the Minister for Local Government:

What is the number of students required for—

(a) the establishment of a technical annexe; and

(b) a technical annexe to become a full technical school complete with its own administration?

The Hon. L. A. LOGAN replied:

(a) It is not possible to state the specific number of students required, as this will depend on the numbers enrolled in day and evening classes. However, the department will give consideration to the establishment of a technical centre sharing facilities with the local high school where there is an assured attendance of 70 or 80 apprentices in addition to the students enrolled in other technical classes.

(b) The regulations provide that a separate technical school may be established where there is a prospect of maintaining at least 3,000 student hours per week.

FLOODING IN WOLSELEY ROAD, MORLEY

Relief for Affected Residents

3. The Hon. R. F. HUTCHISON asked the Minister for Mines:

(1) As one of the three representatives for Morley in the Legislative Council, will the Minister use his influence both at government and

local shire levels to have something done immediately to bring relief to the people in Wolseley Road, Morley, who are in a desperate position through flood waters now surrounding the houses?

(2) Will the Minister, as a representative of these people, inquire if these tenants will be eligible for flood relief from the funds of the public appeal now being conducted?

The Hon. A. F. GRIFFITH replied:

(1) Since this question was placed on the notice paper, I have personally visited the area in question and have also made inquiries from the appropriate Government department and the local authority concerned.

I have received a letter dated the 31st August, 1964, which reads as follows:

re: Drainage—Wolseley Road Area

With reference to flooding in the Wolseley Road area, it is advised that four houses are affected —two in Wolseley Road and two in Camboon Road. Details of the houses concerned are as follows:

Situation; Owner; Building Licence Issued.

Lot 29 Wolseley Road; Geuskens; July, 1955.

Lot 30 Wolseley Road; Arts; August, 1959.

No. 44 Camboon Road; Hansman; August, 1962.

No. 42 Camboon Road; Price; September, 1962.

The house mainly affected is that owned by Geuskens which has a lower floor level than the other three as there was no record of any flooding of this land when the building licence was issued in 1955. After consultation with the Public Health Department, a higher floor level was fixed for the remainder of these houses in order to permit filling to be carried out should the sub-soil water rise. Mr. Arts strongly objected to this condition of the building licence.

The houses in Wolseley Road are built on the low portion of what was originally a 2 acre lot, owned jointly by Arts and Geuskens, which was subsequently subdivided.

From the time during this winter that a rise in the subsoil water was evident, daily visits to the area were made by the Council's Health Inspector to check on septic tank and hygiene conditions. When the septic tanks became flooded, pan services were provided free of charge.

The waters in the vicinity of these houses are being treated twice weekly by the Council with chlorinated lime, this being for the control of any organisms which may be present as a result of the flooding of septic tanks.

The Council has given every possible assistance in this matter. In the case of Geuskens, the furniture was raised on blocks (provided by the Council) by Council employees. Officers arranged for alternative accommodation with a choice of three house, two of them in close proximity and at a rental of £2 per week. The free use of a truck and two men to shift this family was also offered but Mrs. Geuskens declined to take advantage of this or to move to another house.

Filling sand has been provided by the Council to give access to the houses affected.

The nearest drainage outlet is approximately one mile away which is considered too far for temporary drainage by pumping or any other means to be effected. However, work which the Metropolitan Water Board is carrying out in co-operation with the Council will provide an outlet to an adjoining area so that if similar trouble is experienced next winter, the Council will be in a position to provide temporary drainage.

I trust that the foregoing satisfactorily sets out the position and will be of assistance to you.

Yours faithfully,

(Sgd.) A. A. Paterson,
Shire Clerk,
Bayswater Shire Council.

I have also received a memo. from the Chief Engineer, Public Works Department, to which are attached photographs and a plan of the area. The memo. reads as follows:

re: Drainage of Camboon and Wolseley Roads.

Information for Hon. Minister for Mines.

Attached are two panoramic photographs of the houses affected by flooding in this area,

together with a plan which shows in black, metropolitan main drains constructed and operating, and in red, drains under construction or proposed. On the plan is shown shaded light blue, the affected area.

The drain marked "AXB" is under construction and will be operating for the winter of 1965. It is understood that the Bayswater Shire Council will construct an open drain from "B" to "C" before the winter of 1965; then, if trouble occurs in this area, any future relief could be provided by comparatively simple pumping from "D" to "C" which it is understood the Shire Council would be prepared to arrange.

Ultimately, a permanent outlet system along the line "XYD" will be necessary. Preliminary estimates indicate the cost of this scheme will be in excess of £80,000.

Immediate relief could only be provided by installation of a pump at the intersection of Wolseley and Camboon Roads and a 6-inch pipe along Camboon Road and View Street to the end of the existing metropolitan main drain, a distance of about 3,500 feet. This Board has no pumps and pipes available for this work at present. If, however, these were available, the cost of their installation and removal, together with running costs for reasonable time, could amount to approximately £2,500.

31st August, 1964.

Chief Engineer.

The plan and photographs are available to the honourable member for her information.

(2) The Lord Mayor's Distress Relief Fund Committee has requested the Government Relief Advisory Committee to investigate these cases and report.

LOCAL GOVERNMENT ACT AMENDMENT BILL

Introduction and First Reading

Bill introduced, on motion by The Hon. R. F. Hutchison, and read a first time.

BILLS (8): RECEIPT AND FIRST READING

1. Vermin Act Amendment Bill.
2. Fire Brigades Act Amendment Bill.

   Bills received from the Assembly; and, on motions by The Hon. L. A. Logan (Minister for Local Government), read a first time.
3. University of Western Australia Act Amendment Bill.

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

   Bill received from the Assembly; and, on motion by The Hon. L. A. Logan (Minister for Local Government), read a first time.
5. Alsatian Dog Act Amendment Bill.
6. Anzac Day Act Amendment Bill.
7. Radioactive Substances Act Amendment Bill.

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

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

LOCAL COURTS ACT AMENDMENT BILL

Second Reading

Debate resumed, from the 26th August, on the following motion by The Hon. A. F. Griffith (Minister for Justice):—

That the Bill be now read a second time.

THE HON. F. J. S. WISE (North—Leader of the Opposition) [4.55 p.m.]: The extent of the jurisdiction given to local courts in this State has varied through the years, and the authority to deal with very many matters has been altered to meet changing circumstances. When the Local Courts Act first extended to local courts the authority to deal with certain matters—that was in 1904—the limit within the jurisdiction of local courts was a figure of £100, no matter what type of case was being heard. That figure remained without alteration for many years, but in 1930 it was raised to £250, and that covered all matters coming within the jurisdiction of a magisterial court, whether the case concerned the repossession of a tractor, evictions and repossession of houses because of unpaid rents, and so on.

In 1953 the amount, which this Bill seeks to extend still further, was raised to £500, and that figure covered one particular item. The Bill now before us seeks to extend to £800 the rental value of properties coming within local court jurisdiction. When the 1953 amendment was presented to Parliament many arguments were put forward against the proposal and many questions were asked as to why it was necessary to increase the figure so substantially. Many members felt that the jump from £100 to

£500 was far too great, meaning as it did that property the subject of an annual rental value of £500 would be worth at that time £8,000 or £9,000.

By this Bill we are asked to approve of the uplifting from £500 to £800 of the annual rental value of properties which come within the jurisdiction of the local court. I suppose an annual rental value of £800 would represent a property of about £14,000, a bit more or a bit less. When I first examined the Bill I must admit I had the reaction that it was rather a high figure to place within local court jurisdiction; and, of course, as I understand the parent Act, it would mean that the appellant would have the right to have the matter heard before the Supreme Court in its initial stages. However, as the Minister pointed out, most matters that are now heard before the local court are those containing a lot of formality to give to the aggrieved person the right of a decision of the local court in his favour where up to that point justice has not been done.

I think it could be said that so far as jurisdiction and competency are concerned the local court could be expected to deal with these matters, particularly when we consider that from day to day the local court deals with cases which concern human lives as well as human and material values. In trying to assess the necessity for this Bill and the necessity for the increase, which appears to be so substantial, I must confess I reached the conclusion that in the light of all the circumstances the Bill was justified. Therefore, I support 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.

SALE OF LIQUOR AND TOBACCO ACT AMENDMENT BILL

Second Reading

Debate resumed, from the 26th August, on the following motion by The Hon. A. F. Griffith (Minister for Justice):

That the Bill be now read a second time.

THE HON. F. J. S. WISE (North—Leader of the Opposition) [5.2 p.m.]: This Bill has been introduced to adjust the redundant sections of the Sale of Liquor and Tobacco Act, which conflict with the Licensing Act. Members will recall that last year a Bill to amend the Licensing Act was passed dealing with the keeping of records of sales and the like without it being appreciated at that time that there was any effect on the Sale of Liquor and Tobacco Act.

What this Bill seeks to do is to take away all the conflicts between the two Acts, and all that will be left of this legislation after it is passed will be its title, amended to be a Bill for an Act dealing with the sale of tobacco, 1916-1964, which will keep the control within that Act and state that no person under 18 years of age shall be sold tobacco.

If members look at the Bill I think they will agree that its last clause—clause 5—is most interesting in its form. It is to ensure that the repeal of certain sections shall not in any way affect the provisions of the Licensing Act. It really means that there shall be no doubt whatever of there being any effect on the Licensing Act from any of the provisions of the repealed Act.

The Hon. A. F. Griffith: Particularly if it should conflict with the reprint of the Licensing Act.

The Hon. F. J. S. WISE: That is so. It is a very simple Bill, and all that will be left of the original Act will be a simpler title with the provision that sales of tobacco will not be permitted to persons under the age of 18 years.

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.

MINING ACT AMENDMENT BILL

Second Reading: Order Withdrawn

Order of the Day read for the resumption of the debate, from the 26th August, on the following motion by The Hon. A. F. Griffith (Minister for Mines):—

That the Bill be now read a second time.

THE HON. A. F. GRIFFITH (Suburban—Minister for Mines) [5.7 p.m.]: I move—

That the Bill be withdrawn from the notice paper.

I would like to explain briefly why I am asking for permission to withdraw this Bill.

Since introducing the measure it has been drawn to my attention that an amendment to the Mining Act in 1957 included a word which in fact should have been another word. That is about as far as I want to go, because you may tell me, Mr. President, that I am making a second reading speech on the second amending Bill of which I gave notice this afternoon.

This is a very short Bill, and rather than ask that it be passed and come forward with another Bill which merely alters one word in the principal Act, I think it is better to ask for permission to discharge this Bill from the notice paper and return with the second Bill incorporating the amendment I have just mentioned, together with the amendment in this Bill. I

have given notice of my intention to introduce a Mining Act Amendment Bill (No. 2) this afternoon; and I think this is the cleaner way of doing it.

Motion put and passed.

Order withdrawn.

JUSTICES ACT AMENDMENT BILL

Second Reading

Debate resumed, from the 26th August, on the following motion by The Hon. A. F. Griffith (Minister for Justice):—

That the Bill be now read a second time.

THE HON. W. F. WILLESEE (North) [5.9 p.m.]: This Bill has one very definite purpose. It repeals and re-enacts section 197 of the Justices Act for the purpose of allowing a judge of the Supreme Court to alter the plea of a person if it is one of guilty and has been entered in a lower court. The Minister mentioned the fact that the principle behind the Bill emanates from an instance in the lower court last year when a Supreme Court judge could not alter a plea, and he accordingly drew attention to the fact that his powers were limited in this regard. Hence this legislation.

It is interesting to note that the Justices Act operating in three of our other Australian States has this provision in it; and I think anything that gives us an opportunity and a right to reconsider decisions at law at a given level and to review them at a higher level—or indeed anything that gives us a basis of equity in regard to decisions that could be made in error, though in good faith—should be approved and an opportunity given for further ventilation in such cases, with particular reference to the one I quoted which took place last year.

This will prevent the possibility of a similar situation occurring in our courts, and I see no purpose whatever in holding the Bill up. It is one that should be approved, and I support 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.

EVIDENCE ACT AMENDMENT BILL

Second Reading

Debate resumed, from the 26th August, on the following motion by The Hon. A. F. Griffith (Minister for Justice):—

That the Bill be now read a second time.

THE HON. F. J. S. WISE (North—Leader of the Opposition) [5.13 p.m.]: This is another very simple Bill which proposes to add a new section to the Evidence Act to stand as section 65A. Section 65 of the Evidence Act provides for permission for any books or documents of a public nature to be furnished and available for hearing in the court, if such books or documents have to be removed from their proper custody. That refers to the documents, or books, or references themselves, as originals.

The Bill proposes that a photograph which is certified by an officer of the Library Board of Western Australia as being a true reproduction of, or of part of, any book or other printed matter, or of any document shall, if produced, be admissible to the court as evidence.

All the Bill does in addition to that is to define the officer of the Library Board of Western Australia with authority. There is at the moment no provision for the State Library or the State Librarian to certify any copy of a document which would be admissible. This Bill when passed will give not merely the authority to an officer to certify that such is a true copy, but also authority to the court to accept such copy as evidence.

The Minister in his speech pointed out that this provision would not be invoked very frequently, but would give the opportunity to the court to accept copies of valuable documents instead of their being removed from the custody of the Library Board. 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.

BILLS (2): RECEIPT AND FIRST READING

1. Brands Act Amendment Bill.

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

2. Inquiry Agents Licensing Act Amendment Bill.

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

CONSTITUTION ACTS AMENDMENT ACT (No. 2) 1963, (POSTPONEMENT) BILL

Second Reading

Debate resumed, from the 27th August, on the following motion by The Hon. A. F. Griffith (Minister for Justice):—

That the Bill be now read a second time.

THE HON. F. J. S. WISE (North—Leader of the Opposition) [5.21 p.m.]: This Bill and the one succeeding it on the notice paper are the outcome of legislation passed last year to alter the whole of the franchise of the Legislative Council, to change 10 provinces into 15 provinces, to have two members to each province in lieu of three, and to have triennial instead of biennial elections.

This Bill in particular sets out to render inoperative several of the sections passed last year in the Constitution Acts Amendment Act and, in addition, to make a minor amendment to the provisions in the Act of last year in regard to the seats for which members may apply 14 days after the general elections, or to which they may be allocated. Therefore this Bill affects only in that particular the 1968 members, or those members whose time expires in 1968.

It is more in connection with the provisions of clause 2 of this Bill to which I wish to address myself. I am not at all in agreement with what is required or desired under clause 2—to render inoperative all those provisions which have application to the type of franchise and the conduct of elections, as if elections for the provinces were under the old voting system and property franchise. This clause in particular anticipates what may be necessary following the death of any existing member of this Legislative Council. That is its purpose.

The Hon. A. F. Griffith: Up to a certain extent.

The Hon. F. J. S. WISE: Its purpose is to provide for the roll which would be used in an eventuality. I would be very reluctant indeed in any particular to go back to the franchise that obtained prior to the passing of the Bills last year. We should avoid restoring something which the proclamation of March last made quite definite should not be restored. A new type of franchise and a new sort of Legislative Council were to be instituted. In my view, as I shall endeavour to show to this House, there is no need for a provision of this kind, which will make redundant the provisions of the law already in existence.

In the main, with the exception of the reference to section 3, all of the provisions in clause 2 of this Bill relate to the particulars of elections and the qualifications of electors as they obtained prior to the passing of the Constitution Acts Amendment Act of last year. Since Parliament has unanimously—and I use that word deliberately because there was no opposition or division—decided the franchise shall be changed, we should not endeavour to provide in this way for the contingency I have mentioned. If I died next week there would need to be an election within 90 days. I think it should be dealt with in another fashion.

The Hon. A. F. Griffith: Even though Parliament might have thought it was doing the very thing this Bill now seeks to achieve?

The Hon. F. J. S. WISE: In reply to the Minister's interjection, I think that firstly it is a retrograde step to deal with the matter in this manner. Secondly, as section 70 of the Electoral Act now provides there shall be from seven to a maximum of 45 days between the issue of the writ and nomination day, and it is provided that a maximum of 45 days shall pass between nomination day and election day, if considered desirable or necessary, after the passing of another 10 days from this very hour, these provisions would not be necessary because the effluxion of time would bring us to the 10th December, when all the Bills associated with electoral matters—the Electoral Districts Act, the Electoral Act, and the Constitution Act of last year—commence their operation.

The Hon. A. F. Griffith: I take it that you would be satisfied, in the event of an unfortunate death occurring, not to have a by-election between now and the 10th December.

The Hon. F. J. S. WISE: That is a matter which I think is very unlikely to arise; but if it did arise, I am submitting in the course of stating my case that this is not the way to go about it. If it is necessary within the next two or three weeks to provide for a contingency and it is desired to have an election within a month, I submit that this is not the way to do it.

There are two courses we could adopt: either to resort to section 38 of the Electoral Act as it stands, which provides very clearly for regulations being made by the Governor, either generally or applicable to any particular roll, to specify the method of preparation and prescribe the rules to be observed in regard thereto; or, if that is not flawless, I submit an amending Bill would be the way to cover this matter—to prescribe within the Electoral Act for the roll or type of roll or composite roll in addition to the way in which it is dealt with in the next Bill on our notice paper providing for this specifically.

I think those four points I have raised are surely at least sufficient to cast some doubt as to the need to suspend the operation of certain sections of the Act already proclaimed which contain principles which this Parliament, in its wisdom, supported unanimously. I would not like to go back to that; and I am submitting to the House that there are other ways of doing it apart from cancelling out any divisions. They are not being repealed but being deleted as if they had not happened at all. That is what we are asked in this Bill.

So, I hope the Minister will have a look at the various angles I have presented because I propose to vote against this clause if the measure gets to the Committee stage.

The Bill requires a constitutional majority, and I do not wish to oppose it and see it defeated by that means. I would like the Minister to earnestly consider the points I have raised. If we cannot provide for a possible eventuality or contingency, do not let us do it in this manner by rendering redundant certain parts of the Constitution Acts Amendment Act which have already been approved and proclaimed.

The last clause of the Bill is inserted to give to those who come within the second category—members who find themselves without seats—the right of choice of more than one seat. The amendment in the Bill last year was in clause 7 which introduced section 8B and provided that the 1968 members could, 14 days after the first general election following the proclaiming of the Act, apply for the seat which they wished to have allotted to them. If there is only one request or application, it really becomes automatic. If there is more than one application for the same seat, a ballot is conducted within the provisions of section 7, which initiates section 8B in the parent Act.

There is a further category applying to members who are without seats, and there are seats contiguous to the ones they previously held. The amendment in clause 3 of this Bill provides a wider choice for those members. Instead of being "one of a number of seats", it is "one or a number of seats".

Another category to which I wish to draw attention, and to which I intend to move an amendment, applies to those people who may, after the initial election and after the ballot, still be without a seat. They may be allotted a seat by the Governor. This can be found in section 7 (4) of the Constitution Acts Amendment Act of last year. I wish to insert a provision that members shall have the right, by invitation from the Governor, to indicate, in order, their preferences for the seats remaining to be allotted. It may not happen, but it could. I think it will happen that after the first provisions have all been exhausted there will be members a long way from the seats they initially held, and those seats would not be contiguous to any part of their former provinces. I have had the amendment drafted but, unfortunately, I could not get it on the notice paper. We have not had a notice paper printed since I drew up the amendment, as the Minister knows. I had it drafted by a very busy and talented officer of the Crown Law Department.

I hope to provide in the amendment that should there be two or more electoral provinces in respect of which no allotment had been made, the Governor may, by notice in writing, ask members to indicate their order of preference for those remaining electoral provinces.

It could be that two provinces would be left, and if we are to interpret, "The Governor" to mean, "The Governor", there could, under the provisions already obtaining, be a Country Party member and a Liberal Party member and a Labor Party member left without a province. It would be rather awkward if the Country Party member was given the Liberal Party seat, and the Liberal Party member was given the Labor Party seat; and I refer to those seats by their components or composition. I think it would be preferable to make it clear that a member might notify by invitation that his choice of the remaining electoral seats is so and so. I forecast that amendment because I think there is reasonableness in it. It will round off, as it were, all the provisions which we are endeavouring to get into the Act of last year.

It will be recalled that last year, when these various Bills were before the House, both the Minister and I drew the attention of members to the fact that while the Bill appeared to cover—I use the words I used last year—all the contingencies that could at that time be anticipated, it might be that we would require amendments to meet the situation after the districts had been redesigned and the new provinces created. That is why the Minister has brought this Bill forward—and more particularly the amendment to the Electoral Act.

The Hon. A. F. Griffith: I brought it forward because I regard clause 2 equally as important as clause 3.

The Hon. F. J. S. WISE: Well, I cannot see eye to eye with the Minister, for the reason I have stated. I do not think clause 2 matters very much.

The Hon. A. F. Griffith: In that case clause 3 doesn't matter either.

The Hon. F. J. S. WISE: I think we should give some choice to members whose time expires in 1968 and who must have a seat allotted to them. We might find that a member from the metropolitan area is allotted a south-east province, or something of that kind, unless provision such as I have outlined is made.

The Hon. H. K. Watson: I think the Act provides against that happening.

The Hon. F. J. S. WISE: We have more than one case where members find themselves without a province at all.

The Hon. R. C. Mattiske: Like me!

The Hon. F. J. S. WISE: Members realise that, because six will not go into four. I do not want to name members or the provinces they now hold. If the Minister prefers to lose this Bill, I am happy about that. I only want to extend that extra provision in case clause 3 is carried.

The Hon. A. F. Griffith: I am only trying to do, by this Bill, what Parliament thought it was doing last year.

The Hon. F. J. S. WISE: I do not think so. Parliament did not have any thoughts at all. In disagreeing with the Minister I point out that Parliament had no thoughts about the type of amendments that might be necessary. It is something that has arisen, is it not?

The Hon. A. F. Griffith: No, it is not.

The Hon. F. J. S. WISE: Of course it is. This Bill is endeavouring to meet a contingency that might not arise.

The Hon. A. F. Griffith: In clause 2 and clause 3.

The Hon. F. J. S. WISE: Might not arise at all.

The Hon. A. F. Griffith: I repeat: In clause 2 and clause 3.

The Hon. F. J. S. WISE: I would rather do without the Bill, which I will not help to defeat. I would rather assist the constitutional majority necessary, but I will oppose it by having the votes of those associated with me recorded against clause 2 of the Bill, on the four grounds I have raised. At this point I am not saying where my vote will go. I will wait until I have heard the argument against the points I have raised.

THE HON. H. K. WATSON (Metropolitan) [5.43 p.m.]: I have listened with interest to the last point made by Mr. Wise, and at this stage it appears there may well be some merit in it. However, speaking for myself, I would have to give it more consideration to appreciate the significance of what he has in mind. When the amendment is on the notice paper it will afford me, and other members, an opportunity to give it more adequate consideration.

The Hon. F. J. S. Wise: I had no chance of getting it on the notice paper.

The Hon. A. F. Griffith: I realise that Mr. Wise did not have a chance to put his amendment on the notice paper. If we get through the second reading tonight, I will not take the Bill into the Committee stage.

The Hon. H. K. WATSON: On the other question—the question to which Mr. Wise expressed opposition—I think there is a very short answer to what he has said. In the first place he suggested that this Bill was to render inoperative a certain section of the Act which was passed last year. I submit it does nothing of the kind. Going back to last year—and speaking for myself—my clear understanding was that all the changes which were to take place, were to take place for, as from, the 1965 election.

The Hon. A. F. Griffith: With one exception.

The Hon. H. K. WATSON: That was my clear understanding of the situation.

The Hon. F. J. S. Wise: That is not right.

The Hon. A. F. Griffith: The exception was that the 1964 members would carry on until 1965.

The Hon. H. K. WATSON: Yes; but that has nothing to do with the election and the province changes now being discussed.

The Hon. A. F. Griffith: That is quite right.

The Hon. H. K. WATSON: Subject to the exception which the Minister has suggested, and which I consider is irrelevant, the position as I understood it—and I think as every other member understood it—was that we were to carry on with the existing position until 1965. The Bill we do know was pretty hurriedly drafted last year, and it does seem to me that provisions which were intended to come into operation next year were, through imperfect drafting, accelerated—unintentionally accelerated—to come into operation on the 26th March last.

I am certainly with the Minister on this Bill. To my mind it does nothing more than give clear effect to what was the true intention of Parliament when we passed the legislation last year.

THE HON. A. F. GRIFFITH (Suburban —Minister for Justice) [5.46 p.m.]: I would like to repeat what I said at the outset, or by way of interjection, that I do not propose to ask the House to proceed with the Committee stage of the Bill tonight.

The Hon. F. J. S. Wise: I think you might be wise to defer the second reading vote, too.

The Hon. A. F. GRIFFITH: As I am now on my feet, I would like the honourable member to suggest to me how I can do that?

The Hon. F. J. S. Wise: By not taking the vote.

The Hon. A. F. GRIFFITH: The honourable member knows that I cannot do that at this point of time. I find the argument put forward by Mr. Wise a little difficult to understand. He told us that I have presented to the House a Bill in two parts, in the main. Clauses 2 and 3 are the effective basis of this particular measure. He agrees with me that clause 3 is intended to put right something which we thought was going to be the case in 1963, but he disagrees with me that clause 2 has the same effect. I ask members: In all conscience, what was the understanding last year when we made this change?

I introduced two Bills. I introduced one to amend to Electoral Districts Act, and I said to the House, "If this Bill is acceptable to Parliament, and if it will change the composition of the House from 10 provinces of three members each to 15 provinces of two members each, I give an undertaking that the Government will

follow up the Bill with one to amend the franchise of the Upper House—that is, the Legislative Council."

The Hon. F. J. S. Wise: That is right.

The Hon. A. F. GRIFFITH: A Bill to alter the basis of representation was agreed to; that is, the Electoral Districts Act—the one that was first introduced. That was followed by the Act we are now dealing with—the Constitution Acts Amendment Act.

When introducing the amendment to the Electoral Districts Act, I had to foreshadow, with your permission, Mr. President, what was going to be included in the Constitution Act; and I very carefully, I thought at the time, explained that right up until the point of the change, everything would be exactly the same. I said—I think I used these very words, but I am not sure—"If there is a by-election occurring in the intervening period, it will be on the old boundaries and on the old franchise." Now, I ask members: Was not that the understanding; was not that the statement that was made, or was not that statement near enough to the words I used?

The Hon. F. J. S. Wise: I do not know.

The Hon. A. F. GRIFFITH: I think I do; and I heartily agree with Mr. Wise when he said, "If we find any mistakes in this legislation, and the draftsman has done a good job, there will be time to correct them because we have another sitting of the House between the passage of this legislation and the time it becomes effective in 1965." I think Mr. Wise would probably remember that. Perhaps a little later we could find it in *Hansard*. I shall certainly avail myself of the opportunity to have a look, because I do not want to misrepresent this situation to this House.

All I am doing in presenting the Bill is, I submit, what Parliament thought it was doing. I contend that Parliament thought it was making a change not only in respect of the basis of representation so far as electoral provinces are concerned, but also in respect of the franchise and voting for the Upper House.

The Hon. F. J. S. Wise: It made that change last year.

The Hon. A. F. GRIFFITH: Yes, it did; but it made that change only in part, because two proclamations were necessary, and one still has to be made.

The Hon. F. J. S. Wise: The understanding over the supplementary matter was dealing with the Electoral Act, was it not?

The Hon. A. F. GRIFFITH: No. The amendment to the Electoral Act is on the notice paper now, and it has been introduced by me.

The Hon. F. J. S. Wise: That is the one anticipated.

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

The Hon. F. J. S. Wise: Not this one.

The Hon. A. F. GRIFFITH: Of course. I never said anything about this one at the time, because I did not know this mistake had occurred; but I know jolly well, because I am sure I said it, that in the event of there being a by-election it would be on the old boundary and on the old franchise. Now I pose this question to the honourable member—and I sincerely hope this does not happen to any one of us: Mr. Wise, what would be the position if a member of the Legislative Council were to die in the very near future? May I also pose this question to the honourable member: Would the election be held on the old boundaries or the new ones?

The Hon. F. J. S. Wise: It could easily be arranged. You have authority, as I have pointed out.

The Hon. A. F. GRIFFITH: Ah, now I—

The Hon. F. J. S. Wise: It is no use ridiculing what I say in that nasty fashion. You already have the authority.

The Hon. A. F. GRIFFITH: I am not intending to be nasty—

The Hon. F. J. S. Wise: You please yourself.

The Hon. A. F. GRIFFITH: —and I am not going to have my point sidetracked like that. I am not going to be nasty; and I do not believe I have been. I am trying to point out to the House what I believe to be the position.

The Hon. F. J. S. Wise: I just point out to you that this was not the Act that was intended to be amended, by any statement you made last year.

The Hon. A. F. GRIFFITH: Yes, it was—

The Hon. F. J. S. Wise: All right.

The Hon. A. F. GRIFFITH: —in the event of there being a mistake discovered; and the honourable member himself said, "If any mistake is found in this legislation we will have an opportunity to correct it."

The Hon. F. J. S. Wise: That is right.

The Hon. A. F. GRIFFITH: We are not in disagreement on that point. For fear of incurring the honourable member's displeasure, I will address my question to you, Sir; and I am sure you will agree I should do that. My question is this: In the event of there being a Legislative Council by-election in the next month, would you expect the election to be held on the old boundaries or on the new ones, Mr. President? I think you would expect the election to be held on the old boundaries; and I think every member in this Chamber would expect that. How would you expect the election to be held in respect of the franchise, Mr. President? I respectfully suggest that you would expect the election to be held on the old franchise; because

we said, and intended, that the new franchise would take effect from the redistribution of the provinces in 1965, and not until the boundaries had been redivided in 1965.

The Hon. N. E. Baxter: You would have one member elected on the new franchise and the rest on the old.

The Hon. A. F. GRIFFITH: That is the point; and that is exactly what you would have, or some other sort of mix-up. If the House refused to pass this Bill and there was a by-election, we would have the by-election on the old boundaries; we would have it on adult franchise; and we would not have a roll. That is the position; and the honourable member says we would have a roll, because he points out to me section 38 under which he says regulations can be made to give this situation validity. I ask: Is it reasonable to expect the Government to bring down regulations to validate something in respect of which we have a Bill here to correct?

The Hon. F. J. S. Wise: Yes.

The Hon. A. F. GRIFFITH: I do not think it is.

The Hon. F. J. S. Wise: Of course it is.

The Hon. A. F. GRIFFITH: We will not argue this point, because the honourable member is entitled to his opinion just as I am to mine; but I do not think it is reasonable.

The draftsman pointed out to me that this question had been missed, and he said, "I regret to say that we did not do this, and I think we should do it." Therefore I have brought the Bill to the House to correct the situation so that we will know exactly where we are going. In the event of a by-election—and I hope there will not be one—it will be held on the old boundaries and on the old franchise. Until the redistribution of the Legislative Council seats, as made by the commissioners, is proclaimed to take effect somewhere between the 10th December and the 31st December—those are the dates I gave the House, from memory as the dates on which it would take effect—

The Hon. F. J. S. Wise: That is in the Act.

The Hon. A. F. GRIFFITH: Yes.

The Hon. A. R. Jones: What roll would you use?

The Hon. A. F. GRIFFITH: That is the point; we would not have a roll.

The Hon. R. F. Hutchison: The Assembly roll would do.

The Hon. A. F. GRIFFITH: It would do very nicely, provided we give the amendments to the Electoral Act and the Constitution Act an opportunity to work.

The Hon. F. J. S. Wise: That is the context of my remarks; that it could be better done that way than in this fashion.

The Hon. A. F. GRIFFITH: There again, I think it is a matter of opinion which I must leave to the House to determine. I am quite sure in my mind what was intended. I feel that every member of the House thought—perhaps I should not say that; but I do feel that everybody thought that the situation as it pertains today would continue until 1965, with the exception of the fact that we had to bring the 1964 members forward a year, and we had to put five of the 1966 members back a year, and the other five we had to put on for two years, so that we could align these elections in 1965 and 1968. We will have a chaotic position, and one I think we did not intend, if we do not pass this Bill.

The Hon. G. C. MacKinnon: Would it be a voluntary or a compulsory election as it is?

The Hon. A. F. GRIFFITH: I can answer that question. It would be a voluntary election, because there has been no change made in the Electoral Act; and the Electoral Act Amendment Bill is the one, I think, on the notice paper.

The Hon. A. L. Loton: It follows on this one.

The Hon. A. F. GRIFFITH: Exactly. These changes have not been made in the Electoral Act; nor has provision for compiling the roll been made in the Electoral Act; nor has provision for compulsory enrolment in respect of the Legislative Council been made in the Electoral Act. So I contend, with the greatest respect, it is fallacious to say the position is all right and we do not need this Bill. The position is not all right, and we do need this Bill.

The Hon. F. J. S. Wise: I do not agree.

The Hon. A. F. GRIFFITH: I thought from the time the honourable member started to speak that he would not agree with me. However, I cannot do more than say what I conscientiously think the situation is. I can only examine myself on this matter and imagine what other people might think. I consider it is necessary to have this Bill, and I hope it will be passed, because we will not, by so doing, actually be doing what Mr. Wise has said; namely, postponing the effect of these things. These things were not intended to come into effect until 1965.

The Hon. F. J. S. Wise: This is dealing with an Act proclaimed in March last, and section 2 (1) clearly sets out what it does; and I say that with great respect to the members who have already spoken.

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

The Hon. F. J. S. Wise: That it shall be deemed not to have come into operation.

The Hon. A. F. GRIFFITH: That is, sections of it, but only sections of it. I know certain parts of the Constitution

Act have come into effect, for the very reason that the honourable member himself was put forward a year in his political life, from 1964 to 1965; and so was I. I know others that were put back. I know others—

The Hon. R. C. Mattiske: That were put out!

The Hon. A. F. GRIFFITH: As to that we still maintain an excellent sense of humour which is to be admired. I sincerely trust the Bill will pass because, legislatively, it corrects a position which I am sure this House and another place thought they were correcting when the Act was passed.

Question put.

THE PRESIDENT (The Hon. L. C. Diver): In order that the question may be carried, it is necessary, according to the Constitution, that there shall be an absolute majority. I shall divide the House.

Bells rung and House divided.

THE PRESIDENT (The Hon. L. C. Diver): Having established that there is an absolute majority of members present and voting in favour of the motion, I call the division off and declare the question carried in the affirmative.

Question thus passed.

Bill read a second time.

ELECTORAL ACT AMENDMENT BILL

Second Reading

Debate resumed, from the 27th August, on the following motion by The Hon. A. F. Griffith (Minister for Justice):—

That the Bill be now read a second time.

THE HON. F. J. S. WISE (North—Leader of the Opposition) [6.3 p.m.]: This Bill has had passing mention already. Without looking at it, and if my memory is correct, it is a measure of 39 clauses.

The Hon. A. F. Griffith: You must have had at least one look at it to find that out.

The Hon. F. J. S. WISE: In its design it is meant to provide for all the alterations in the Electoral Act to differentiate between Assembly voting and Legislative Council voting. In addition, it seeks to effect other amendments. With the general principles in this measure one cannot sharply differ, but there is an alignment of sorts between some parts of the Electoral Districts Act and this Bill, because there are some sections of the Electoral Districts Act which were amended last session that may impinge upon certain formulas associated with quota systems. Although the Minister may have given his attention to the Electoral Districts Act it is one, I think, which requires a little tidying up.

For example, the Electoral Districts Act Amendment Act, No. 69 of 1963, added new section 11A to the principal Act to prescribe the boundaries of certain areas and, specifying the north-west area, took the Murchison seat into the north-west area for the purpose of making two provinces, but then excluded the Murchison seat from the north-west area. The same amending Act amends subsection (2) of section 7 of the principal Act and excludes the Murchison seat from the north-west area for the purpose of making 47 seats from which to precribe the quota.

The Hon. A. F. Griffith: It does not exclude it, but it does not include it.

The Hon. F. J. S. WISE: If the Minister is not included in a party he is certainly excluded, and that is the position with the Murchison seat. It is either a part of the north-west area, or it is not.

The Hon. A. F. Griffith: I have already given answers to 67 questions asked by Mr. Jamieson in another place on this subject.

The Hon. F. J. S. WISE: I think the question is one for the Minister, because the answers avoid looking at the problem in a practical sense.

The Hon. A. F. Griffith: The answer I gave was that the Murchison district was intended to be included in the north-west area for the purpose of the Legislative Council.

The Hon. F. J. S. WISE: Yes, but since we are using Assembly rolls and quotas for 47 seats, the Minister may be well advised to think about making the total 46 seats and leave the Murchison seat in the north-west area.

The Hon. A. F. Griffith: That would give the Murchison electorate 5,500 electors and the Kimberley and Gascoyne electorates less than 2,000 each.

The Hon. F. J. S. WISE: It still adds up.

The Hon. A. F. Griffith: Would that be fair?

The Hon. F. J. S. WISE: It is still fair. The Kimberley and Pilbara districts become one province, and the Gascoyne and Murchison districts become one province, whether it is fair or not. This Bill requires some further investigation to justify the quota system and the deletion of one seat from the north-west area which is not of the north-west area for other purposes.

This Bill to amend the Electoral Act seems to provide for most amendments that are necessary. I do not notice any provision for votes to be taken by smoke signals or anything of that nature. In general, it meets the situation with the exception of one or two particulars. As you are looking at me rather sternly, Mr. President, I am wondering whether I should dilate on those particulars now or later.

Sitting suspended from 6.10 to 7.30 p.m.

The Hon. F. J. S. WISE: Many provisions in this Bill appear to meet all the necessary circumstances of merging the Assembly and the Council, using one roll and making express provision for what are termed conjoint elections. So we find in the measure very many of the provisions of the Electoral Act as it is today amended to meet all of the circumstances of conjoint elections—elections to be held for both Houses on the one day, from 1965 onwards.

The opportunity has been taken in the presentation of the Bill to repeal and re-enact certain sections of the present Act to make provision for rolls for districts, rolls for subdistricts, and rolls for districts in a province to form province rolls. There is provision also to meet the circumstance which was introduced in our Legislature, I think, in 1948, to give a much longer space between nomination day and polling day, particularly in the North Province. When this provision was first introduced in 1948, it provided for both districts in the North Province and the North Province itself to be affected by the extended period.

By the Bill, section 70 is to be amended to include provision for the Assembly elections in the North Province, because of the conjoint election provisions. I suggest to the Minister, as the Minister controlling this Act, that it would be a matter best left to the discretion of a government rather than have the proviso in the parent Act at all; because if one reads section 70 in conjunction with section 66—the new or the old, it does not matter—one will find the new section 66 in the Bill provides for general elections to be held on the same day as fixed by the writ. The new one expressly states that in the case of a general election for the Council or the Assembly, the same day shall be fixed by the writ for the polling in a different province or district, as the case requires. I am sure the Minister can see the point I am leading up to.

The Hon. A. F. Griffith: Yes, I can.

The Hon. F. J. S. WISE: If we leave section 70 as it is, as amended by clause 25 of this Bill, we will perpetuate for all districts and all provinces the practice of having: (a) under the provisions of section 66, the elections on the same day; and, (b) under the provisions of section 70, no less a period than 35 days between nomination and election day.

The Hon. A. F. Griffith: You suggest we could cut that time down?

The Hon. F. J. S. WISE: I suggest that all Governments have in the past, and will in the future, find a compulsory period of five weeks between elections far too long.

The Hon. A. F. Griffith: It was done, I think you said, for the convenience of the north.

The Hon. F. J. S. WISE: Let us go back to that. I have looked up the debate on that issue, and in Act No. 63 of 1948 the principle was first introduced, I think, at the instigation of The Hon. Mervyn Forrest to provide for a longer period between nomination day and election day in the North Province because of its tremendous area. The North Province then included Gascoyne, Pilbara, Roebourne, and Kimberley. When Roebourne was taken out in the 1948 Act, in the redistribution of seats, it became Kimberley, Pilbara, and Gascoyne—still the same area, but only three seats. Dr. Hislop was in the House at the time.

If members will read a copy of the Electoral Act they will find we are amending now only the particular of grouping the provinces of the district together, but the provision for the 35 days will still remain; and I propose, for the consideration of the House, and the Minister, to place an amendment on the notice paper tomorrow for the deletion completely of the proviso in section 70, so that section 70 in the Act, which clause 25 amends, will simply read—

> The date fixed for the nomination of candidates shall not be less than seven days or more than forty-five days from the date of the writ.

If that is done, 45 days, which is also mentioned in section 71 for other purposes, gives to a Government the choice of any time after seven days from the issuance of the writ for nomination; and then, without the proviso, the elections may be held at any time not less than 21 days or more than 45 days later, under the provisions of section 71.

A member may have a district as big as a pocket-handkerchief—just one of many —which one could ride around on a bicycle before lunch; but the North Province at the moment is from the Murchison River to Wyndham—in short terms, a colossal distance—but it is served today at all points with road and air services, progressively improving; and there are very few places—I know of none—that could not, within three weeks, have all the votes back to the place where they were required.

The Hon. A. F. Griffith: Making the protective proviso you suggest now unnecessary.

The Hon. F. J. S. WISE: Unnecessary entirely.

The Hon. A. F. Griffith: I would be happy to look at that.

The Hon. F. J. S. WISE: I would refer the Minister to Act No. 57 of 1952 which altered Act No. 63 of 1948 because it was found that the five weeks had to obtain for the Assembly and the province. It will be found at p. 2330, vol. 3 of *Hansard*, 1952, that there was a move by Val Abbott to strike out that provision on the ground that it was a period far too long for a general election. I would point this out: The issuance of the writ is never on a Saturday and nomination is never on a Saturday; so we not only get seven days,

but intervening days which encroach. So, instead of a minimum of 35 days, there is a minimum of 42 days, which is six weeks, because elections must be held on a Saturday. That is how it worked out. That is how Mr. Abbott explained it to the House; and, I repeat, it will be found on p. 2330, vol. 3 of the 1952 *Hansard*.

The Hon. J. G. Hislop: Wouldn't 14 days be better than seven?

The Hon. F. J. S. WISE: I think seven has stood the test of time.

The Hon. J. G. Hislop: It has never been used.

The Hon. F. J. S. WISE: I can recall an election where it was cramped up to the shortest possible period. I think governments of the day should have the authority and, I submit, the right, whatever colour they may be, to decide the duration of the limited period, and whether they will extend it or not, according to another State's election. It should be within the discretion and judgment of governments. I would prefer to see that proviso right out, so that clause 25 of the Bill we are discussing will read something like this, if, with your permission, Mr. President, I may anticipate the amendment—

> Section seventy of the principal Act is amended by—Take out all words in the Bill at that point and add the words "deleting the proviso".

If members will look at section 70 of the Electoral Act they will see exactly what my purpose is; namely, to avoid having north, south, east and west elections on a conjoint basis, and to provide that the period in question shall be six weeks. That is what it means if we leave it in. I think it is something that might have been overlooked, and it is very important to electors, members, and candidates.

The Hon. A. F. Griffith: I do not know that it was overlooked. I was conscious of the fact that this protective period was given to the north-west because of the size of the north; but with the improved means of transport and mail services it could be broken down. Anyway, I will have a look at it.

The Hon. F. J. S. WISE: I have known the north for a long time. I have travelled on its roads and landed on its airstrips all the useful part of my life. I would say that the improvements in roads over the last 25 years represent one of the great evolutions of our time. That obtains in the district you represent, Mr. President. The Department of Civil Aviation has had the airstrips improved; and even though it is usually the wet season in the north about election time, I do not know of any landing ground that has been out of action for more than days at a time. I think my colleagues will agree with that statement.

I am suggesting that we give all governments the discretionary right of having a much shorter period—21 days rather than 42 or 45 days or more—in which to conduct an election. I also intend to endeavour to amend clause 6 of the Bill. I hope the Minister will be agreeable to this. Sometimes he can be agreeable.

The Hon. A. F. Griffith: More often than not.

The Hon. G. Bennetts: He is a give-and-take man.

The Hon. F. J. S. WISE: As long as he is not a put-and-take man, I do not mind. I propose to amend clause 6. In the new section 17 proposed in the Bill there appears the following provision in connection with both Council and Assembly elections:—

> . . . any person not under twenty-one years of age who—
>
> (a) is a natural born or naturalised subject of Her Majesty;
>
> (b) has lived in the State for six months continuously; and
>
> (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,

I propose to test the House on two points in connection with that clause. The first will deal with paragraph (b), and I shall propose to delete after the word "for" the words "six months continuously" and insert the words "a period of six months immediately preceding the date of his claim to be so enrolled."

I do not wish it to be quoted against me that this has been the law for some time. I know that it has been; but the way the Act is worded at present, a person might have lived in the State for six months continuously 25 years ago, immediately following his birth, in the first year of his life. That person might have lived in London or the Solomon Islands ever since, and he could return to Australia and be enrolled immediately. I would like the Act to read that a person must have lived in the State for six months continuously immediately preceding the date of his claim to be so enrolled.

The Hon. A. F. Griffith: When you say immediately, would he not have to fulfil the other requirements of the Act which provide for continuous residence in the district for three months?

The Hon. F. J. S. WISE: I wish to alter that.

The Hon. A. F. Griffith: I thought you might.

The Hon. F. J. S. WISE: The Minister knows that the Government has promised to make it consistent with Commonwealth law.

The Hon. G. Bennetts: Uniformity is a good thing.

The Hon. F. J. S. WISE: In the ultimate there could perhaps be one roll for all elections.

The Hon. A. F. Griffith: You would have to have the coinciding boundaries then.

The Hon. F. J. S. WISE: That is not improbable or unlikely. It is within the realm of possibility; but I am not relying on that as an argument. We are dealing with the provision of conjoint elections and one roll. I firmly believe that a person should not be permitted to return to Western Australia after an absence of 25 years and be entitled to have his name put on the roll after he has been here for three months, or that he should be on the roll because he has lived continuously in the State for six months at some time in his life. It is time we corrected that. I concede that the provision has been in our law for some time in its present verbiage.

The Hon. A. F. Griffith: I am prepared to have a look at this. You appreciate that we have taken out the two-year provision for a candidate for the Legislative Council.

The Hon. F. J. S. WISE: Yes. I was nearly affected by that when I was first ambitious enough to try to enter this Chamber in 1930—a long time ago. I missed by 27 votes. I was almost here in 1930.

The Hon. A. F. Griffith: I know a member who has been here for 27 years as a result of one vote.

The Hon. F. J. S. WISE: That's right.

The Hon. A. F. Griffith: He is over there, still hale and hearty.

The Hon. F. J. S. WISE: I know of the two-year residential provision. I had been here only a month longer at that time. It was colossal cheek, I admit; an attribute which I have subsequently lost, of course!

I propose to submit to the House at the appropriate time the necessary wording to give effect to ensuring that a person has lived in the State for six months continuously prior to his enrolment. It is not an unfair proposition. It covers a very bad situation. I shall also move to provide that a person must live in a district continuously for a period of one month prior to his enrolment. That is in line with Commonwealth law; and when a member in another place introduced a Bill last year, the Government gave an assurance that it would look into the matter. The Government might not have looked into it.

I would like the Minister to give consideration to those three points; namely, continuity immediately preceding enrolment; the one month provision; and, in particular—and very much in particular—an amendment to section 70 of the Act when, at the appropriate time, I shall propose an amendment to clause 25 of the Bill. We will then not be worried about specifying the North Province or districts in the province, because we will not be governed by that difficult period specified in the law; that is, the minimum period of 35 days, which, in practice, means 42 days, because we are bound to have elections for both Assembly and Council on the one day.

I have had a good look at this Bill. I think all the other requirements within the electoral law have been met in this legislation. I support the Bill.

THE HON. A. F. GRIFFITH (Suburban —Minister for Justice) [7.56 p.m.]: I thank the Leader of the Opposition for his study and support of the Bill. I will, of course, have a look at the points raised. I do not think it is necessary for me to deal at length with them at the moment, because they are matters principally for the Committee stage. I would, however, like to comment on the concluding words of the honourable member's speech. He said something to the effect that a conjoint election meant that two elections must be held on the same day. As envisaged last year, when we dealt with this legislation, they may be held on the one day but they will not necessarily have to be held on the one day. In the event of a government not living out its full period of time, they will not be held on the one day.

The Hon. F. J. S. Wise: There is no provision for a double dissolution of both Houses of Parliament.

The Hon. A. F. GRIFFITH: There is no provision for that, and I trust there never will be. I think I can speak for the Government when I say that it had no desire to provide for that; and the House accepted the legislation last year on the basis that no provision would, in fact, be made. It could be that we could strike a period every six years when elections would be held on the same day. The last time it occurred was, I think, in 1956, and it looks as if it could occur again in 1965.

Regarding the north, it is appropriate that the member for the North Province should suggest the breaking down of the protective period of time. I would like an opportunity to have a look at this matter, and also at the amendments foreshadowed by the Leader of the Opposition. I would like ample opportunity to look at the suggestions. If I am unable to agree with some of them, I hope I will be able to put forward valid reasons for not doing so.

Question put.

THE PRESIDENT (The Hon. L. C. Diver): The Bill requires the concurrence of an absolute majority, and in accordance with Standing Order No. 243 a division must be taken.

Bells rung and House divided.

THE PRESIDENT (The Hon. L. C. Diver): Having established that there is an absolute majority of members present and voting in favour of the motion, I call the division off and declare the question carried in the affirmative.

Question thus passed.

Bill read a second time.

CRIMINAL CODE AMENDMENT BILL

Second Reading

Debate resumed, from the 26th August, on the following motion by The Hon. A. F. Griffith (Minister for Justice):—

That the Bill be now read a second time.

THE HON. W. F. WILLESEE (North) [8.2 p.m.]: This Bill, as the Minister explained when he introduced it, is taken basically from the Crimes (Aircraft) Act, 1963, which is a Commonwealth piece of legislation. It appears to me that the Bill will place appropriate amendments, applicable to the stealing of aircraft, within the provisions of the Criminal Code, and it deals with interstate travel by aircraft rather than intrastate travel.

I was somewhat intrigued by the Minister's introductory remarks when he used the word "hijacking". I see that this term is not mentioned in the Bill itself, but I was sufficiently interested in it to try to find out its true meaning and I referred to the *Concise Oxford Dictionary*.

The Hon. A. F. Griffith: And it is not there?

The Hon. W. F. WILLESEE: It is there. I found that a hijacker is a person who preys upon bootleggers, appropriating and profiting by their illicit liquor. I have not had the good luck to run across a hijacked plane in Western Australia, and I do not suppose I ever will, but I should imagine the word will disappear from the vocabulary used in connection with this measure. However, it was of some interest to me to look up the word because the stealing of an aircraft, of course, is distinct and very different from the true meaning of hijacking as it related to the bootlegging days in America.

The Hon. A. F. Griffith: I think I read in the Press where an aircraft was described as having been hijacked.

The Hon. W. F. WILLESEE: Did you?

The Hon. F. J. S. Wise: You cannot always rely on the Press.

The Hon. A. F. Griffith: I did not say I could.

The PRESIDENT (The Hon. L. C. Diver): Order!

The Hon. W. F. WILLESEE: The Bill makes provision, clause by clause, for the treatment of offenders where they have interfered with an aircraft on the ground, stolen an aircraft, or interfered with the crew of an aircraft, or even the passengers on an aircraft. The definitions in the Bill are similar to, if not exactly the same as, those in the Commonwealth Act.

I intend to place two amendments on the notice paper in due course to provide for some modifications of the penalties set out in the Bill. Generally speaking, whilst I have no intention whatever of condoning any action which endangers life —I believe in the full punishment of the law in such cases, and in the proposals that are set out in the Bill—I think we could relate the proposals in the Bill to sections which are already in the Criminal Code. It is my intention, with the two amendments I have, to relate the offences concerned more specifically to the Criminal Code in its present form, and to leave the specific amendments provided in the Bill, which deal essentially with aircraft, completely on their own.

The Hon. F. J. S. Wise: Independent of the Criminal Code.

The Hon. W. F. WILLESEE: That is so. My purpose is to endeavour to write into the Criminal Code in the proper places those parts which are applicable only to aircraft.

The concluding clause in the Bill deals with the rights of a captain to protect his plane under varying degrees of stress. The officer in command is given certain authoritative powers, such as the right to search the luggage of passengers, the right to refuse a passenger permission to board his aircraft, and the right to tell a passenger to get off an aircraft. I think those provisions are definitely needed. It is eminently reasonable that those rights should be given to the captain of an aircraft in the same way as we give to the captains of ships and those responsible for our railways the same sort of protection.

It is noticeable that offences covered by clauses 13 and 14 of the Bill are to be dealt with by a justice, which means they would be dealt with entirely on their merit. No penalty is written into those clauses, and the reason is obvious. The degree of responsibility would be the deciding factor rather than the amount of damage caused; because damage would not have been caused if preventive measures could have been taken. I do not intend to oppose the Bill in any way, but I do want members, at the appropriate time, to consider the two amendments I have mentioned.

THE HON. A. F. GRIFFITH (Suburban—Minister for Justice) [8.11 p.m.]: I thank Mr. Willesee for his comments on the Bill. He was kind enough to advise me verbally of the amendments he proposes to move, and he subsequently made a copy of them available to me. As he said, they are

not on the notice paper because it has not been possible to have them placed there; but, provided the House is agreeable, I am prepared to let the Bill go into Committee and deal with the amendments now, because the first one proposes to delete only one word and insert another in lieu. The second aims to delete certain words from the Bill, and I do not think the amendments are of such a nature that we need wait to have them placed on the notice paper. That is my own view and, unless some member has any objection, I think we can go on and deal with them.

Question put and passed.

Bill read a second time.

In Committee

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

Clauses 1 to 5 put and passed.

Clause 6: Section 318A added—

The Hon. W. F. WILLESEE: The penalty provided under this clause is a period of 14 years. The clause amends section 318 of the Criminal Code. The whole of section 318 deals basically with the question of assault in its varying forms and, in my view, the amendment provides for assault when it takes place in an aircraft. I think we should write into the Criminal Code this additional clause, but we should provide the same penalty as is now provided for assault—that is, imprisonment with hard labour for three years.

The Hon. G. C. MacKinnon: But in the instance under discussion more lives could be endangered, could they not?

The Hon. W. F. WILLESEE: The provisions already in the Criminal Code take cognisance of that fact. I am told that assault can be a very moderate sort of thing; whereas under the Bill we provide for varying terms of seven years, 14 years, and so on. Fourteen years for assault, in my opinion, is too much.

The Hon. A. F. Griffith: But do you appreciate that the offences provided for in section 318 are misdemeanours and not crimes?

The Hon. W. F. WILLESEE: Under this clause assault is not necessarily a crime.

The Hon. A. F. Griffith: It is not a crime.

The Hon. W. F. WILLESEE: It could be plain, simple assault. A person could interfere with the hostess, for instance, and not necessarily the captain or the other members of the crew.

The Hon. A. F. Griffith: Section 318 of the Criminal Code covers offences which are not crimes; they are misdemeanours.

The Hon. W. F. WILLESEE: We are going to write into section 318 an addendum which is no different. I move an amendment—

> Page 5, line 30—Delete the word "fourteen" and substitute the word "three".

The Hon. A. F. GRIFFITH: I appreciate what the honourable member has said, but if he looks at section 318 of the Criminal Code he will see that the serious assaults set down there are misdemeanours, not crimes, the penalty for which is three years. It is now intended to add a new section 318A, under which it will be a crime, not a misdemeanour.

At the conference of Attorneys-General in Adelaide I particularly asked Sir Garfield Barwick as to whether it was intended to make this particular penalty a uniform penalty in the States, and he said it was a matter for each State to decide; but he added that it was such a serious matter that he hoped the States would provide severe penalties. There must be severe deterrents for crimes of this nature, because in the case of assaults in aircraft not only is the life of the person assaulted at stake, but the lives of some 120 other people. So it is a far more serious offence than an assault as provided for in section 318 of the Criminal Code. I would like members to read this section and see what it sets out.

In clause 6 it is intended to make a distinction, because there was the case of a man who attempted to hit a T.A.A. pilot on the head with an iron bar. Not only was he guilty of a crime, but of a crime of such a nature that he had the lives of every other soul on board the aircraft at stake. I do not think we should break this one down, because the crime it covers is a very bad one. I understand other countries are providing a penalty more severe than 14 years' imprisonment for such a crime. This, incidentally, is a maximum, not a minimum, term.

The Hon. W. F. WILLESEE: The Minister has centred his remarks on what could happen if a pilot's life were jeopardised. I have in mind a case of assault which is not premeditated. A person could have drunk too much and be temporarily excited enough to obstruct the hostess or the steward in the course of their duties; and an assault could take place. If the case were brought to court there would be a great variance in the degree of penalty that would be imposed, in so far as it affected the coldly premeditated assault on the one hand and the lesser lighthearted assault on the other.

The Hon. G. C. MacKinnon: There is no minimum penalty.

The Hon. W. F. WILLESEE: No. There is no differentiation; except that we say there will be a maximum sentence of 14 years. I can see degrees of assault within

a plane where the offence is not basically serious enough to warrant such a drastic penalty.

The Hon. A. F. Griffith: You are not assuming that each person charged and found guilty would get 14 years.

The Hon. W. F. WILLESEE: I had hoped I made that clear when I mentioned the possibility of the degree of variance of the assault. If we wrote in such a heavy penalty as 14 years the judge would have no option but to pass sentence accordingly, even though the assault might not warrant a penalty of that nature.

I have had the unenviable experience of seeing people board an aircraft and be obstructive for a period of time. But the matter has generally been handled adequately by the captain calling for assistance within the aircraft. I would not like to think that any of the instances I have witnessed would warrant a penalty of even one year's gaol. If my amendment cannot be accepted, perhaps the Minister would give some thought to setting out degrees of punishment within the clause itself. I certainly would not like to deprive the legislation of a provision which in some cases could be warranted.

The Hon. J. G. HISLOP: This is something new that has confronted us in recent times. This clause would not cover an assault or an attack on a member of the crew of an aircraft who was not engaged in the operation of the aircraft. An attack on the hostess could not be regarded as interfering with the operation of the aircraft. If a person suffered claustrophobia by being shut up in an aircraft, he would not be obstructing the officer willingly. These modifications could be dealt with by the magistrate. A term of 14 years will seldom be given; and, if it should be, the man who committed the assault would probably not be alive to serve his sentence—he would have gone down with the others. This is a deterrent maximum penalty to ensure that everyone who boards an aircraft will appreciate the seriousness of assaulting an officer aboard the aircraft. The judges themselves can modify the penalty, because there is no minimum: and 14 years would be an exceptional penalty.

The Hon. A. F. GRIFFITH: If members look at sections 313 to 317 of the Criminal Code they will see that different forms of assault are laid down. Section 313 provides for imprisonment with hard labour for one year; section 314 provides hard labour with imprisonment for 14 years. There we have two different types of assault. Dr. Hislop hit the nail on the head. If a passenger decided he would interfere with the duties of the hostess, this may be regarded as some form of assault, but it would not be an assault covered by proposed section 318A. This provides that a person who, while on board an aircraft, unlawfully assaults a member of the crew or threatens with violence a member of the crew so as to interfere with the performance by the member of his functions and duties connected with the operation of the aircraft, is guilty of a crime and is liable to imprisonment with hard labour for 14 years. The hostess does not fly the aircraft, and she would not be covered by that provision in the Bill. Provision has been made to impose a heavy penalty on a person who commits the graver offence, and the penalty proposed is 14 years' imprisonment.

The Hon. H. C. Strickland: Would the navigator be covered by this clause?

The Hon. A. F. GRIFFITH: Yes, because an aircraft without a navigator is not a safe aircraft. A person who puts the navigator out of action would be endangering the lives of the others on the aircraft.

The Hon. H. C. Strickland: Somebody has to feed the navigator and pilot to enable them to carry on their duties; and that person is the hostess.

The Hon. A. F. GRIFFITH: But the aircraft would not be in any great danger if the pilot and navigator could not be fed.

The Hon. W. F. WILLESEE: The Minister referred to the degree of responsibility of the members of the crew, and the effect on the aircraft through the acts mentioned in this clause being committed. When I referred to the hostess on an aircraft I was only using the wording of the clause, which makes it an offence for any person, while on an aircraft, to unlawfully assault a member of the crew. The hostess is a member of the crew. The only difference between the Minister's view and mine is that I dealt with a junior member of the crew, while he dealt with the captain of the crew.

The Hon. A. F. Griffith: A person should not be imprisoned for 14 years for pinching the hostess.

The Hon. W. F. WILLESEE: No, but he would be if he pushed her out of the door of the aircraft.

The Hon. A. F. Griffith: Victoria has provided for 15 years' imprisonment for this offence, the Commonwealth 14 years, and Queensland also 14 years. The other two States have not yet passed similar legislation.

The Hon. W. F. WILLESEE: There is a probability that this point I am dealing with has not been put before those States. It is very easy to allow legislation to pass without a great degree of thought being given to it.

The Hon. A. F. Griffith: The Attorney-General of the Commonwealth said it was a matter for the individual States to decide whether they should make the penalty uniform. He hoped the penalty would be a severe one.

The Hon. W. F. WILLESEE: However, even if the maximum penalty is 14 years, the severity of the offence will be decided by the judge.

The Hon. H. K. WATSON: We should look at every clause in every Bill before agreeing to it. Because a Bill is presented to us, it does not mean it does not contain anomalies which can inflict an injustice. The important point is that it is the judge who will, in the light of all the circumstances, impose the penalty provided in the clause. I would point out that under the Criminal Code a person is liable to imprisonment with or without hard labour; or to a fine in addition to, or instead of, such imprisonment. In the two cases mentioned—the act of pinching the hostess, and the act of bashing the pilot with an iron bar—the penalty would range between a fine and 14 years' imprisonment.

Amendment put and negatived.

Clause put and passed.

Clause 7 put and passed.

Clause 8: Section 390B added—

The Hon. W. F. WILLESEE: I move an amendment—

> Page 6, lines 24 to 28—Delete all words commencing with the word "or" down to and including the word "device."

This clause has three divisions, all connected wth the unlawful taking of an aircraft. Firstly, if a person unlawfully takes an aircraft he is liable to imprisonment with hard labour for seven years. Secondly, if there are people on board the aircraft, the offender is liable to imprisonment with hard labour for 14 years. Then, thirdly, there is the more serious offence covered by paragraph (b) of proposed section 390B: This involves violence and threats when the aircraft is unlawfully taken. The words I have moved to delete are contained in paragraph (b).

A person unlawfully taking an aircraft by fraudulent representation, trick or device, could be doing so without using violence. I submit there is not the same degree of severity, and he should not be liable to imprisonment for life. It is a much more serious offence if violence in any form is used when a person unlawfully takes over an aircraft. I submit that section 7 of the Criminal Code would cover cases involving fraudulent representation, trick or device. I have no desire to interfere with the penalties proposed; I merely wish to delete from the clause what is not relevant, and to take that part of the offence away from the penalty of life imprisonment.

The Hon. A. F. GRIFFITH: It is contended that if the words are deleted from the clause, section 7 of the Criminal Code will deal with the position. I do not agree, because section 7 has no relevance to the clause. Clause 8 of the Bill sets out what constitutes the offence of the unauthorised use of an aircraft. That is to be new section 390B. The clause proposes to add a new section to the Act, and it does not seek to amend any existing section. It makes the person who unlawfully takes or exercises control of an aircraft liable to imprisonment for seven years; but if the offence is committed in the circumstances referred to in paragraph (a) the penalty is then lifted to 14 years, and in the circumstances referred to in paragraph (b) the penalty is lifted to life imprisonment. There are three particular phases of this offence.

The Criminal Code provides a similar penalty for other offences. Section 393 which deals with the crime of robbery provides for a penalty of 14 years. If the offender is armed wth any dangerous or offensive weapon or instrument, or is in company with one or more person or persons, or if, at or immediately before or immediately after the time of the robbery, he wounds or uses any other personal violence to any person, he is liable to imprisonment with hard labour for life. This penalty can be imposed with, or without, whipping.

Section 394 of the Criminal Code provides similarly in the case of attempted robbery, and there are many examples. In other words, the crime remains the same, but the penalty is increased according to the circumstances in which the crime is committed. Section 7 of the Criminal Code only sets out the parties to the offence who are liable; for example, the principal offender, the accomplice, and the accessory before or after the act.

These three categories are the basis upon which the Bill is proposed: On his own; with some other assistance; or with an accomplice.

The Hon. H. K. Watson: On an ascending scale.

The Hon. A. F. GRIFFITH: That is right, according to the severity of the crime and whether, as the honourable member said, the crime is committed on the spur of the moment, whether it is calculated, or whether the calculation is done in the company of some other person. The ascending severity of the crime is dealt with accordingly.

The Hon. W. F. WILLESEE: I made it clear that I was in complete agreement with the principle of the ascending crime, as we now term it. My point is that the last five or six lines deal with the worst stage of the ascension, and contain an anticlimax. The punishment is not in keeping with the relative degree of severity of the crime. To menace people and steal the aircraft is the basic principle of the early part of paragraph (b). However, the latter part breaks the whole thing down to fraud and trickery.

Surely it is reasonable that the situation contained in the words which I desire deleted should be dealt with under section 7. I want to make it quite clear that there is no intention whatever of altering the penalties in relation to the seriousness of the crime that is likely to be perpetrated.

It is a great pity that in situations such as this we see one thing so clearly, and the person arguing the case on the other side seems to see his point of view so clearly, but we cannot arrive at agreement in between. To me this matter is serious because I do think that there is no comparison between the three situations. I submit, dealing with section 393, stealing by violence and extortion by threats is covered; but there need not in my opinion be extortion, threats, or violence in the case of one or more persons using tricks or devices.

The Hon. A. F. Griffith: If they are not using them, they will not be punished for them.

The Hon. F. D. Willmott: And in the case where they are using trickery or devices, it is premeditated.

The Hon. W. F. WILLESEE: Hard labour for life?

The Hon. F. D. Willmott: Under those circumstances, yes, if it is premeditated.

The Hon. H. C. Strickland: Callous old cow, isn't he?

The Hon. L. A. Logan: You want to be with those blokes!

The Hon. A. F. Griffith: Must be!

The Hon. W. F. WILLESEE: Must be! If the Minister could convince me that the latter portion of paragraph (b) is anywhere near as serious as the other portions of it, and of paragraph (a), I would be prepared to listen for a long time. However, I cannot see that there is not ample provision in respect of the latter portion already. It is an unnecessary addendum. The matter is already covered, and I hope the Committee will agree to my amendment.

The Hon. A. F. GRIFFITH: I do not want to labour this, and I appreciate the honourable member's point of view, but he seems to think the maximum is going to become the minimum. Surely the honourable member is not expecting me to believe that a crime committed as a result of a fraudulent trick or calculated action after premeditation is not worse than the first two crimes laid down in paragraph (a) and the first part of paragraph (b).

The Hon. F. D. Willmott: It is every bit as bad.

The Hon. A. F. GRIFFITH: If it is every bit as bad, and not worse, what is suggested is that the penalty should be the same for the two offences. I understand the honourable member is seeking to take out all words after the word "instrument" in line 24 down to and including the word "device" in line 28. Is that right?

The Hon. F. D. Willmott: Yes.

The Hon. A. F. GRIFFITH: If we do that, it means we say that if a fellow commits the crime in company with someone else as a result of a fraudulent trick, that is not as bad as if he does it on his own.

The Hon. H. K. Watson: Mr. Willesee does not say that.

The Hon. A. F. GRIFFITH: If you take those words out, we do not deal with that person.

The Hon. W. F. Willesee: Yes, you do—under the other provisions, on your own admission.

The Hon. A. F. GRIFFITH: No. I say that section 7 has no relevance, because this will be a new section in the Criminal Code. Section 7 lays down a number of things which can be done, but once again it has no relevance, because this is a Bill to amend the Criminal Code by including provisions and penalties in connection with those who assault people in aircraft, take control of aircraft, and that sort of thing, and this has no relevance to any section in the Code. We are endeavouring to write these new sections in to give protection in the event of crimes being perpetrated. If someone commits such a crime he endangers the lives of so many others on board the aircraft.

The Hon. W. F. WILLESEE: I always understood that the Criminal Code provided for everything. I do not think the Minister would be prepared to give an assurance that this Bill provides for everything that can happen with regard to aircraft.

The Hon. A. F. Griffith: I do not think you would be unreasonable enough to expect me to give such an assurance.

The Hon. W. F. WILLESEE: I did not doubt he would not give such an assurance. I believe that if there was any reasonable hope of having this dealt with, from the point of view I hold, the latter portion should be written into the Bill but should contain a lesser penalty. However, if it is left as it is, the legislation will be dangerous. Incidentally, in Ottawa a man stole two planes recently and received four years for it. That appeared in *The West Australian* of the 3rd September this year.

The Hon. A. F. Griffith: The fellow in Queensland who hit the pilot over the head with an iron bar was not able to be given more than three years, which was the maximum. Queensland has still to enact its legislation.

The Hon. W. F. WILLESEE: That point is not at issue.

The Hon. A. F. Griffith: It was in the previous clause.

The Hon. W. F. WILLESEE: I have said so often what is the point at issue here. The words I want deleted are dealt with out of proportion to the rest of the provision. We could perhaps get over the situation if the Minister were prepared to include the words but provide a lesser punishment.

The Hon. F. R. H. LAVERY: I am perturbed over this clause also. I do not think anyone could deny that a person who takes an aircraft, or any other vehicle at the point of a gun or offensive weapon, deserves the highest penalty possible. However those dealt with in the amendment may not have anything to do with a rifle or offensive weapon. They may be involved purely and simply in a trick to get the pilot off the plane so they can take it away. If a person merely steals a plane he receives seven years. If he uses an offensive weapon he is certainly entitled to the highest punishment we can give him. I have been listening to Mr. Willesee and also to the Minister. I say with the greatest respect that once the Minister has submitted a Bill he never gives away a point if he can avoid it; and I give him credit for that.

The Hon. A. F. Griffith: I do not want credit for that, because you know it is not right.

The Hon. F. J. S. Wise: I think it is right.

The Hon. F. R. H. LAVERY: The Minister carries out his duties most exemplarily in that particular. If he can save his Bill as is, he does his best to do so; and I do not blame him for that.

When we are trying to amend clauses in a Bill because of something that has happened in the past, it is incumbent upon the Minister to give us a case in point—to tell us of a group that has taken a plane by trickery, false representation, or other devices; because I believe these persons could do exactly that, and yet not be armed at all.

The Hon. A. F. Griffith: You suggest a law should be based on cases in point.

The Hon. F. R. H. LAVERY: I suggest that Bills do not come before the Chamber because of some assumption, but because something has happened to cause them to be brought down.

The Hon. A. F. Griffith: Yes, but not necessarily in this instance.

The Hon. F. R. H. LAVERY: I would think the people controlling the Criminal Code in this State and elsewhere would not go to the trouble of bringing down Bills just because something is assumed. Something has happened to cause these Bills to be amended. We have already had one such measure before us tonight. There was a reason to bring down that Bill, and we supported it; but I am not happy to support the three types of punishment included in this measure; and there could easily be a fourth.

I think Mr. Willesee is quite right when he suggests that a portion be deleted from paragraph (b) and, if necessary, included in another paragraph dealing, perhaps, with a lesser degree of crime; because, in the first place, the man has an offensive weapon, and, in the second place, it is a group of people trying to effect a trick. If the Minister says these two types of people are entitled to the same sort of imprisonment with hard labour, I cannot agree with him.

The Hon. H. C. STRICKLAND: I have had a good look at this clause, and while I agree it would be much clearer if it was itemised, when one reads it one finds it makes provision for very serious offences and crimes. One clause deals with the hijacking, as the Minister described it, of a plane. After hearing Mr. Willesee's explanation of hijacking, I would say it is the stealing of a plane by force with accomplices; and that is what I understand the clause to mean, namely, the taking possession of an aircraft through prearranged conspiracy with accomplices. That is not uncommon in Europe and in the American States; and, with the very fast development of Australia, it may not be uncommon here unless there is something to prevent it.

While I agree with my colleague, Mr. Willesee, that the clause would be clearer if the various points were segregated, I think it is quite understandable. The maximum penalty is life imprisonment, but the judge can let an offender off with a caution. The penalties range from a caution to life imprisonment, and I feel there is no harm in the provision.

The Hon. G. C. MacKINNON: There might be another interpretation as to the range of these penalties. The first one, to my mind, refers to an aircraft which is unprotected—which has no pilot or anyone else on board. Paragraph (a) could quite easily deal with an aircraft in which there was no pilot, but in which there happened to be a passenger. A penalty of 14 years is provided in that instance, and that is fair enough. Paragraph (b) provides for the sort of circumstances where there is actually a crew in the plane, or where a plane is left completely on its own.

The Hon. A. F. Griffith: In those circumstances there is little chance of there being any passengers.

The Hon. G. C. MacKINNON: That is so. If there is a passenger sitting in the plane, but no crew, the penalty goes up to 14 years. But in any circumstances where the offenders have to threaten or use any sort of trick to get the crew out of the aircraft to steal it, the penalty

jumps to imprisonment with hard labour for life. I suggest to the Committee that the clause has been devised with these three fundamentally different concepts in mind. I can understand the portion which Mr. Willesee wishes to take out.

The Hon. F. R. H. Lavery: There are actually four; there is the last one.

The Hon. G. C. MacKINNON: Not quite. The crew would be overpowered in some way or other. There could be three or four chaps standing around a pilot and suggesting that he get out. That would be a trick; no threat would have been made. But basically all three provisions are designed to punish the man who, by some means or another, removes the crew from the aircraft.

The Hon. H. C. Strickland: The crew can take it themselves. This provides for it.

The Hon. G. C. MacKINNON: Yes; but it is mainly aimed at people who, at the point of a gun, or by physical violence, or by a trick, remove the crew and take over the plane. That is why we get the gradations of penalty from seven years to hard labour with life. I think the gradations are fair enough.

The Hon. J. G. HISLOP: I think we often get ourselves into difficulties through long sentences with "ors" and "ands" which make them difficult to interpret. The Bill could be written in much simpler form. Under paragraph (b) it would seem, on the face of it, that the other persons who are present with the actual offender who is to take charge of the plane can get off with 14 years, whereas the man who actually takes charge of the plane will get imprisonment with life. I would say it would not matter who took charge of the plane, the whole four would be equally guilty. If four people were involved, they should all receive the same penalty. It is quite possible that any of the four of them could navigate the plane.

This paragraph simply refers to the offender being armed, and so on. Nothing is said about what happens to the other persons until we go back to paragraph (a). I do not see any distinction between the man who takes charge of the plane, and his accomplices. I think they should all be on the same level. It would not do any harm to have another look at this clause and divide it into sections to see that each one involved in the crime gets equal punishment with the others. I think that could easily be done.

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

Ayes—10

Hon. D. P. Dellar	Hon. R. H. C. Stubbs
Hon. J. Dolan	Hon. J. D. Teahan
Hon. J. J. Garrigan	Hon. W. F. Willesee
Hon. R. F. Hutchison	Hon. F. J. S. Wise
Hon. F. R. H. Lavery	Hon. R. Thompson

(Teller)

Noes—13

Hon. C. R. Abbey	Hon. R. C. Mattiske
Hon. A. F. Griffith	Hon. H. R. Robinson
Hon. J. Heitman	Hon. S. T. J. Thompson
Hon. J. G. Hislop	Hon. H. K. Watson
Hon. A. R. Jones	Hon. F. D. Willmott
Hon. L. A. Logan	Hon. J. Murray
Hon. G. C. MacKinnon	

(Teller)

Pairs

Ayes	Noes
Hon. E. M. Heenan	Hon. J. M. Thomson
Hon. G. Bennetts	Hon. A. L. Loton

Majority against—3.

Amendment thus negatived.

The Hon. H. K. WATSON: If an offence of the nature indicated occurs on an overseas plane, or an interstate plane, at Perth, who institutes the prosecution? Presumably the Commonwealth Government—the Commonwealth Attorney-General.

The Hon. A. F. Griffith: Not necessarily.

The Hon. H. K. WATSON: I would like the Minister to explain who does. We do not want a Commonwealth Act administered by a State Attorney-General. Then there is a further question. Mr. Menzies indicated in a recent communication to the Premiers that in his opinion, if I understand his communication correctly, under existing constitutional arrangements, the Commonwealth Parliament will have power to exercise, and will exercise, control over intrastate as well as interstate aviation. That being so, would not the Commonwealth Crimes Act be adequate to cover the whole situation; and, if so, would not this Bill conceivably be superfluous?

The Hon. A. F. GRIFFITH: No, the legislation is not superfluous. Even if the Commonwealth Government controls air services in the manner foreshadowed by the Prime Minister, this Bill will be necessary. There will be instances when flights in Australia will not necessarily be controlled by the Commonwealth Government, and then the State legislation will apply. Last year, as Mr. Watson has said, the Commonwealth Government passed the Crimes (Aircraft) Act of 1963, which concerns flights which are not wholly and exclusively made intrastate. So it is the responsibility of each State to legislate to give effect to that legislation.

The point I made when introducing the second reading of the Bill was that there could be a doubt as to which State, in fact, should initiate legislation in the event of a crime occurring in the air over the border of two States.

The Hon. F. J. S. Wise: Would it need a referendum for the Commonwealth to take control of all flights in the Commonwealth?

The Hon. A. F. GRIFFITH: I could not say, but I hope the State will maintain its own control to the greatest extent possible.

The Hon. F. J. S. Wise: Hear, hear!

The Hon. A. F. GRIFFITH: If that was the reply that was expected of me, I have no hesitation in saying that we will hold on to the State's rights as long as we can.

The Hon. F. J. S. Wise: That is the only thing we agree upon.

The Hon. A. F. GRIFFITH: No; I am sure we agree on many more matters. The Commonwealth legislation may or may not be effective; but, if it is not, the State legislation will be effective, and this measure we are passing this evening will bring us into line with those States which have already passed similar legislation. I understand there are still two States which have not passed such legislation, but they intend to introduce a Bill in the current sessions of their Parliaments.

The Hon. H. K. WATSON: I would suggest that some thought be given to the suggestion by Dr. Hislop. I consider that clause 8 is ambiguous and there is room for greater clarity in its drafting.

The Hon. A. F. GRIFFITH: If the Committee agrees to the clause now, I will confer with the draftsman and if greater clarity can be achieved I can recommit the Bill for such purpose at a later stage.

Clause put and passed.

Clauses 9 to 14 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

DAMAGE BY AIRCRAFT BILL

Debate resumed, from the 26th August, on the following motion by The Hon. A. F. Griffith (Minister for Justice):—

That the Bill be now read a second time.

THE HON. W. F. WILLESEE (North) [9.21 p.m.]: This is a small Bill dealing with the principle of a person suffering damage to property as a result of aircraft flying at other than the required height. It also deals with the responsibility attaching to persons who drop articles from aircraft in flight, and the right of complainants after such trespass has been committed. In the Bill, "article" is defined to include any liquid or liquid spray. In his introductory remarks on the second reading, the Minister said it was probable that there would be further legislation in the future dealing with the control of liquid or liquid sprays dropped from the air. That is the reason why they are included in the Bill.

The Hon. A. F. Griffith: Ministers for Agriculture are looking for this.

The Hon. W. F. WILLESEE: As the Minister has told us, the Ministers for Agriculture in the various States are watching this situation. I do not see that there is any need for me to elaborate further. Although the legislation will be new to the Statute book, I am sure it will be of advantage when passed. It merely seeks effective control, as did the previous measure, over damage to people and property by aircraft in flight.

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.

House adjourned at 9.26 p.m.

Legislative Assembly

Tuesday, the 8th September, 1964

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