given by the sponsor of the Bill to reports of cures of physical ailments by these people. Conversely, there are many people in Western Australia who have consulted unorthodox healers without success and in many cases to their physical or mental detriment.

In conclusion, I would like to say—

Mr. Roberts: Before you finish, I notice you mentioned the constitution of the board. Could you give some indication as to who the persons are and whether they have the qualifications of the two bodies mentioned in the constitution of the board?

Mr. ROSS HUTCHINSON: Is the member for Bunbury talking about the United Health Practitioners' Association?

Mr. Roberts: Yes, and also the chiropractors and osteopaths.

Mr. ROSS HUTCHINSON: I am led to believe that the United Health Practitioners' Association (Incorporated) is not on the list of companies registered under the Companies Act. It may have been registered in recent days; I do not know. The Chiropractors and Osteopaths' Association of W.A. is a strange sort of body, and I have little knowledge of their activities. I would say, however, that a member of the Chiropractors and Osteopaths' Association would not be permitted to enter the Australian Chiropractors' Association, which is a body registered in Australia. For anybody who tries to make any sense out of it, clause 5 would prove to be very strange reading indeed.

I can find no better way to conclude than by quoting the comments made by the Commissioner of Public Health in May 1956, when a matter similar to this was broached at that time. I quote—

> The present attitude in Western Australia is one of vigilant tolerance towards such practitioners. Action is not taken against them for illegal practice of medicine on a technical breach of the Medical Act, but action is taken if supportable charges are made regarding fraud or practices dangerous to health.
>
> Under such circumstances these practitioners are able to practise whatever talents they possess and are only likely to be restricted when their ambition so oversteps the bounds of their knowledge that they constitute a danger to the public.

Surely Parliament does not intend to upset this attitude of vigilant tolerance! In the interests of public health there must be safeguards. I strongly oppose the Bill.

On motion by Mr. Andrew, debate adjourned.

House adjourned at 11.1 p.m.

Legislative Council

Thursday, the 1st October, 1959

CONTENTS

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

ELECTORAL ACT AMENDMENT BILL

First Reading

Bill introduced by the Hon. R. F. Hutchison and read a first time.

BILLS (2)—THIRD READING

1. Land Agents Act Amendment.
2. State Electricity Commission Act Amendment (No. 2).

Passed.

JURIES ACT AMENDMENT BILL

Second Reading

THE HON. A. F. GRIFFITH (Suburban—Minister for Mines) [2.39] in moving the second reading said: Members will recollect how, after protracted debate, the principal Act was agreed to in 1957. That Act was introduced following a report by a Select Committee, of which I had the honour to be chairman, the other members being Sir Charles Latham and Mr. Teahan.

In the preparation of the Bill, the then Government sought the advice of the judiciary, the Acting Commissioner of Police, the Master of the Supreme Court, the Solicitor-General, and the Chief Crown Prosecutor. The Act, of course, provides for the inclusion of women on juries, and, because of this, it was not possible to proclaim the Act at once or even at an early date. As most members may have noticed, additions and renovations are being carried out to the Supreme Court building.

The Hon. G. Bennetts: They are costing plenty, too!

The Hon. A. F. GRIFFITH: I should say that the cost would be, to use the expression of the honourable member, "plenty." These additions and renovations are partly for the convenience of women jurors, and therefore it will not be possible to have women on juries until these building activities are completed.

The Act has been proclaimed to come into operation on the 1st July, 1960, and this has enabled a careful survey to be made of its provisions. As a result, it has become apparent that several amendments of a machinery nature are required. These do not in any degree alter the principles of the parent Act. Under Section 14 of the Act, the Chief Electoral Officer is required by ballot to select jurors to the number notified by the sheriff for each jury district; and he will be required to do this for the first time in November of this year.

As a result of that requirement, conferences took place between the Chief Electoral Officer and the Master of the Supreme Court—who is also the sheriff—as to the carrying out of the provisions of the Act. They found that some difficulties could arise, and suggested that certain amendments be made. The Act requires that the selection be made from all the Legislative Assembly electors in each jury district. The metropolitan or Supreme Court jury district comprises 21 metropolitan electorates; and there are approximately 220,000 electors. It is desired to select from that number, as far as it is at present understood, 10,000 persons. If a ballot were to be conducted to take 10,000 out of 220,000, it was considered by the officers concerned that it would be a somewhat cumbersome method, and could result in an unbalanced selection.

The Hon. L. A. Logan: That is what I said when the legislation was introduced.

The Hon. A. F. GRIFFITH: There were also a lot of other things said at that time.

The Hon. F. J. S. Wise: What matters is what you said yesterday.

The Hon. A. F. GRIFFITH: A law has been made by this Parliament, and it has been found difficult to administer, and the measure I am now introducing seeks to tidy up those difficult points of administration, and nothing else. To continue from the point where I was interrupted:

There might be, for example, in such a ballot, no jury personnel selected from Subiaco, and a vast preponderance selected from Cottesloe; all quite accidentally.

The Victorian legislation makes provision for a balanced selection to be made on the basis of the ratio that the population of each electoral district bears to the total number of electors in the jury district; and that ratio is then taken in respect of each district. So, if the total number of electors required is 10,000, and one electorate contains one-tenth of the electors of the district, 1,000 will come from that electorate. This will mean a more equitable distribution of representation throughout the total area, and will not lead to the exclusion of one or the inclusion of the other. The Bill, therefore, makes provision for such a procedure. It will reduce the amount of work involved and ensure that the number of jurors from each electorate will be in the same proportion as the enrolment.

Owing to the fact that the proclamation bringing the Act into operation on the 1st July, 1960, was published in March last, an amendment to paragraph (a) of subsection (12) of section 14 will be necessary to place beyond doubt the legality of preparing the jurors' books before the day fixed by proclamation for the coming into operation of the Act. It is thought that there is doubt as to the validity of preparing these books before the date on which the Act is expected to come into operation, namely, the 1st July next; whereas, on the other hand, they must be prepared reasonably soon, otherwise the required preliminary action cannot be safely gone on with. Therefore this amendment is incorporated in the Bill.

Lastly, it has been suggested that provision be made to permit the sheriff to notify the Chief Electoral Officer to prepare a list of all the persons qualified in a particular electoral district. As the provision stands, the sheriff must notify the actual number of jurors he requires; but at places such as Broome, Roebourne, Wyndham, and Marble Bar, all available and qualified persons would be needed on the draft rolls, and the ballot would not be necessary. This measure provides that the sheriff may request that all the qualified and eligible persons in a particular district of that nature be placed on the jury roll.

In a recent quarter sessions hearing at Wyndham, the total number of eligible persons was 38. Of these, 28 were used on the first trial; and, with challenges and so forth, only 10 were left, and it was impossible to use these 10 on the second trial. So, if there is to be a second trial, it will have to be elsewhere, because they cannot use any of the 28 personnel. Although the amendment of any new Act will increase the number available in such places, it will probably be necessary, from time to time, to use all jury personnel who are available. That is the reason the sheriff suggested that this alteration be made.

The Hon. G. Bennetts: Some of the naturalised coons will have to be in it soon.

The Hon. A. F. GRIFFITH: I will let that interjection pass. The Bill is introduced simply to tidy up, from the administrative point of view, certain features of

the Act which, it has been discovered, would be unworkable if things were allowed to continue as they are now. I move—

That the Bill be now read a second time.

On motion by the Hon. R. F. Hutchison, debate adjourned.

FIRE BRIGADES ACT AMENDMENT BILL

Assembly's Message

Message from the Assembly notifying that it had disagreed to the amendment made by the Council further considered.

In Committee

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

The DEPUTY CHAIRMAN (the Hon. G. C. MacKinnon): The Council's amendment is as follows:—

Clause 5—Delete.

Progress was reported after the Minister for Mines had withdrawn his motion that the Council's amendment be not insisted on.

The Hon. A. F. GRIFFITH: Members will observe that I have placed upon the notice paper an amendment which I offer to the Committee as an alternative to clause 5 which has been deleted by the Legislative Assembly. You will be required, Mr. Deputy Chairman, in putting the question, to read out all the words contained in this amendment, I take it?

The DEPUTY CHAIRMAN (the Hon. G. C. MacKinnon): That is correct.

The Hon. A. F. GRIFFITH: Therefore, I will not take up the time of the Committee by reading the amendment but will merely draw the attention of members to it as it appears on the notice paper. The object of the amendment is to implement the suggestion put up by Mr. Watson. If the Committee agrees to it, it will replace clause 5 in the Bill and will also provide that an aggrieved person—a person who thinks that a direction of the board is of such a nature that it will offend, or that the order of the board is too severe—may appeal, within 21 days, to a court of petty sessions. The court may then confirm the order made by the board, cancel it, or vary it.

Because of the debate which took place yesterday afternoon on this matter, I have had occasion to glean some further information with which I may be able to dispel the fears of Dr. Hislop. When speaking during the Committee stage, Dr. Hislop said that a number of people had told him that the board had a tendency to lay particular emphasis on the commercial aspect of its activities.

I can now advise the honourable member that the board has assured me that such is not the case. Dr. Hislop went on to say that if clause 5 were reinserted the board would have power to order a particular type of fire extinguisher, and so on. The board has advised me that it is very careful to avoid anything of this nature when ordering the installation of equipment or appliances; and it deliberately does not mention any trade name. When a person calls at the office of the Fire Brigades Board for advice in regard to the type of equipment he should install, he is given a list of suppliers; but no specific recommendation is made.

During the course of the investigations on this matter, it was found that as far back as the 12th July, 1953, the secretary of the Fire Brigades Board wrote to the firm of Messrs. Villenevue, Smith, Keall & Hatfield, and asked for a legal opinion on this question. Mr. Hatfield replied in these terms—

Dear Sir,

Re Fire Prevention Regulations.

We have now had an opportunity of considering fully the fire protection regulations and advise efforts should be made to amend the Act by including as a new section 25A in the Act the following section, namely:—

25A. (a) The Board may by requisition in writing direct the owner or occupier of any premises (other than a private dwelling-house designed for the use and occupation of one family) to install and provide in or upon such premises and in or upon such respective positions therein as the board shall direct and, at all times thereafter, to keep and maintain in good working order and fit for immediate use such equipment, apparatus or appliances for the purpose of—

(i) Preventing the outbreak of fire or

(ii) Extinguishing fire

(iii) Preventing injury to persons or damage to property by fire

as shall be specified in such requisition.

(b) Any person who is aggrieved by any such requisition may within 7 days of receipt thereof appeal against the same to a Magistrate of the court of petty sessions nearest to the premises referred to in the requisition on the grounds that the requirements of the requisition are not reasonably required by the board for any of the abovementioned purposes.

Then follows quite a deal more which I do not propose to read. However, should any member care to peruse this letter he is quite welcome to do so. The expression of opinion, then, was that that should be done.

On the other point regarding the regulation-making power, an opinion was given by the same counsel, Mr. Hatfield, and I would like to read all of it. However, it covers four pages and as it is of such great length I do not want to weary the Committee by reading the lot. The point of view that pertains to this particular argument is as follows:—

> In my opinion, the Act should be amended immediately by the inclusion of a section conferring on the Board power to requisition any occupier to install and maintain in good order and condition and in such places as the board shall direct such appliances or apparatus for quelling and preventing fire as the board shall direct with the right of appeal to a magistrate as now contained in the regulation.

This is the most important point—

> The obvious advantage of legislating by virtue of a section of the Act rather than by regulation is that the provisions of an Act, if stated fairly are beyond challenge and cannot be challenged on the ground that they are *ultra vires* or void for uncertainty, vagueness or for exceeding the powers of any enabling section.
>
> It has been my strong opinion for many years that matters such as this which are of vital concern should not be dealt with by regulation but should be effected by direct legislative action, viz., a section in the Parliament Act.

In that four-page opinion is the particular view which Mr. K. Hatfield pointed out to the secretary of the board at that time. The original intention of the Bill was to give effect to counsel's opinion. The amendment which I moved to the clause was to provide for the right of appeal by any aggrieved person. We added this provision to clause 5, but to my distress the clause, together with the amendment, was deleted by 13 votes to 11.

I remind members once again that if we do not rewrite clause 5 into the Bill there will be no power for the board whatsoever; we will simply revert to a situation where the board has only a regulation-making power; and this has been found to be void for uncertainty. Surely it is better to have a straightforward approach by which the board can give direction, rather than that the board should have to make an order by regulation; and an aggrieved person should have the right of appeal. I ask members to give these aspects further consideration. I move an amendment—

That the following clause be inserted as alternative to the clause deleted:—

S. 25A added

5. The principal Act is amended by adding after section twenty-five, a section as follows—

Board may require certain fire fighting appliances.

25A. (1) The Board may by notice in writing addressed to the owner or occupier of any premises direct him to instal and provide within the time specified in the notice, such—

(a) water taps, water pipes, connections, fittings and equipment in respect thereof; and

(b) equipment, apparatus or appliances for the purpose of—

(i) preventing the outbreak of or extinguishing fire; or

(ii) preventing injury or damage to persons or property by fire;

in or upon the premises and in such positions as the Board directs in the notice.

(2) In this section the expression, "premises" does not include premises which consist of a private dwelling house designed for the use and occupation of one family.

(3) The occupier of the premises shall keep and maintain in good working order and fit for immediate use any equipment, apparatus, appliances, taps, pipes or connections installed on the premises under the provisions of this section.

(4) (a) A person who is aggrieved by a direction of the Board may within twenty-one days of the receipt by him of the notice appeal in manner prescribed against the direction to a Court of Petty Sessions held nearest to the premises referred to in the direction, on the ground that the things directed to be installed and provided in or upon the premises are not reasonably required by the Board for any of the purposes referred to in paragraph (b) of subsection (1) of this section.

(b) On the hearing of the appeal the Stipendiary Magistrate may confirm, vary or cancel the direction and effect shall be given to the decision of the Stipendiary Magistrate.

(c) A Court of Petty Sessions hearing an appeal under this subsection shall consist of a Stipendiary Magistrate.

The Hon. H. K. WATSON: Without saying that I am disposed to agree with the proposal of the Minister, I intend as a preliminary to endeavour to amend his amendment. After we have disposed of the amendments which I desire to submit for the consideration of the Committee, we can then proceed to discuss the whole proposal as it then stands. At the moment, under the proposed subclause (4) (c), it is provided that an aggrieved person may appeal to a court of petty sessions. I feel that the minimum right which should be given to an aggrieved person is the right of appeal to the Supreme Court or a court of petty sessions. The purport of the amendments which I desire to move will give effect to that proposition. I move—

That the amendment be amended by adding after the word "to" in line 7 of subsection (4) (a) the following words:—"a Judge of the Supreme court or".

The Hon. A. F. GRIFFITH: I cannot see any reason why we should not accept this amendment on my amendment except, of course, that previously the Committee dismissed a similar move made by the honourable member.

The Hon. H. K. Watson: No, it did not. I withdrew the amendment for further consideration.

The Hon. A. F. GRIFFITH: Thank you. I know we talked about it a lot, and I recall that the argument in relation to this question centred around cost and distance from a Supreme Court judge. I realise that being able to appeal to one or the other will destroy the argument of distance and cost. I would like to know the honourable member's opinion in regard to costs. Where an appeal is made to a magistrate in a court of petty sessions, counsel and solicitors' costs are less than they would be if an appeal were made to a judge of the Supreme Court.

The Hon. H. K. WATSON: I imagine that costs would be at the discretion of the judge or the court of petty sessions as the case may be. At a later stage I would be prepared to move a further amendment to provide that costs of the hearing shall be at the discretion of the court.

The Hon. F. J. S. Wise: Did you want to know the volume of costs?

The Hon. A. F. GRIFFITH: Yes. I wanted to know what the costs would be likely to be.

The Hon. H. K. Watson: I will have to refer that to Mr. Heenan.

The Hon. G. Bennetts: It depends on who you are.

The Hon. A. F. GRIFFITH: Rather than take any notice of that interjection, I say that it would depend on what is involved in the particular question before the court.

The Hon. F. J. S. Wise: And who you employ.

The Hon. A. F. GRIFFITH: Yes; what counsel one may have.

The Hon. H. K. Watson: You may appear in person.

The Hon. A. F. GRIFFITH: Yes, but I suggest it is unlikely in a claim of major degree.

The Hon. G. E. Jeffery: Let us hope it is better than the Betting Royal Commission.

The Hon. A. F. GRIFFITH: Let us stick to the Fire Brigades Board; sufficient malicious statements have been made by others and I am not going to be brought into the question. I think it would be better if we left the matter in the hands of a magistrate in a court of petty sessions. As pointed out by Mr. Heenan, a magistrate is a very worthy person who has been trained in law to make decisions on greater questions than, perhaps, he originally envisaged. He becomes a judge of the Supreme Court under certain conditions. I do not see that the amendment on the amendment is really necessary.

The Hon. H. K. WATSON: So far as costs are concerned, I think any aggrieved person would pay in accordance with the merits of the case. If the principle involved is small, a person will not spend £200 if he can spend £10. On the other hand, if a substantial principle is involved, a person can use his discretion as to whether he goes before a judge of the Supreme Court or before a court of petty sessions.

Amendment on the amendment put and passed.

On motions by the Hon. H. K. Watson, amendment further amended by—

Subclause (4) (b).

Line 2—Insert after the word "the" the words "Judge or".

Line 3—Insert before the word "may" the words "as the case may be".

Line 6—Insert after the word "the" the words "Judge or".

Line 6—Add after the word "Magistrate" the words "as the case may be".

The Hon. E. M. DAVIES: The proposed clause provides that a person may appeal against the decision of the board. A person who appeals is involved in certain

expenses. If his appeal is upheld, it is right that he should be compensated in regard to his costs. I move—

> That the amendment be amended by adding after paragraph (c) the following:—
>
> (d) In all cases where an aggrieved person makes an appeal to a Court under this section all costs of such appeal when upheld shall be a charge against the Board.

The Hon. A. F. GRIFFITH: I hope members will not accept the amendment. The common practice at law is that the judge or magistrate has a discretionary power in the ordering of costs. If we accept the amendment, no matter how ridiculous an appeal may be, if it is upheld, costs must be awarded to the appellant. There could easily be circumstances where that would be undesirable.

The Hon. E. M. DAVIES: I am sorry the Minister has adopted that attitude. By this amendment I am merely asking for British justice. If a person appeals against the decision of the board, and his appeal is upheld, he is entitled to receive the costs of the appeal.

The Hon. H. K. WATSON: I am in full accord with the spirit behind this amendment, but I am inclined to think that the same object could be achieved by following the course suggested by the Minister. Most Acts, which provide for appeals, contain a provision stating that the costs of the hearing shall be at the discretion of the court; and the almost invariable practice is that the costs follow the decision. In unusual circumstances the court may say that both parties shall bear their own costs.

The Hon. E. M. HEENAN: There seems to be some doubt as to whether costs will be allowed, in any event. It might be as well to insert a provision to deal with the position. I agree with Mr. Watson that if costs are to be allowed, they will go to the successful party. It would be a distinct departure from the practice of the courts if the successful party were not awarded costs. Mr. Davies could move an amendment to direct that costs shall be awarded; or that they shall be at the discretion of the court. Costs invariably go to the successful party. I am inclined to favour something other than a direct instruction in the amendment.

The Hon. A. F. GRIFFITH: Mr. Davies mentioned the words "British justice." I am not trying to defeat British justice for a moment. The Fire Brigades Board is charged with the responsibility of protecting human life. If that were not the object behind this legislation we could forget the whole thing. If the board made an extraordinarily harsh order, and the magistrate allowed an appeal, the costs would go to the appellant.

I would be much more satisfied to let the law take its normal course, even to the extent of accepting an amendment as envisaged by Mr. Watson, giving some guidance to the magistrate or the judge in respect of the awarding of costs, than to agree to the present amendment. I am glad to receive confirmation from Mr. Heenan that costs normally are awarded to the successful party. I have noticed cases where an appeal has been upheld, but the line of demarcation was so narrow that the judge awarded only 1s. damages. I am quite willing to accept an amendment as envisaged by Mr. Watson.

The Hon. E. M. DAVIES: I am sorry I cannot accept the suggestion that has been made. I feel that nothing of a paltry nature would be taken on appeal to a magistrate or judge. Residential property will not be involved. Equipment will be ordered for large premises. The Legislature should state clearly that if an appeal is upheld, the appellant shall be entitled to his costs. We have been told that it is usual for the magistrate to grant costs to a successful appellant. I see nothing wrong in incorporating that principle in the measure.

Amendment on the amendment put and a division called for.

The DEPUTY CHAIRMAN (the Hon. G. C. MacKinnon): Before the tellers tell, I give my vote with the noes.

Division taken with the following result:—

Ayes—12.

Hon. G. Bennetts	Hon. F. R. H. Lavery
Hon. E. M. Davies	Hon. J. D. Teahan
Hon. J. J. Garrigan	Hon. R. Thompson
Hon. J. G. Hislop	Hon. W. F. Willesee
Hon. R. F. Hutchison	Hon. F. J. S. Wise
Hon. G. E. Jeffery	Hon. W. R. Hall

(Teller.)

Noes—13.

Hon. C. R. Abbey	Hon. R. C. Mattiske
Hon. J. Cunningham	Hon. C. H. Simpson
Hon. L. C. Diver	Hon. J. M. Thomson
Hon. A. F. Griffith	Hon. H. K. Watson
Hon. E. M. Heenan	Hon. F. D. Willmott
Hon. L. A. Logan	Hon. J. Murray
Hon. G. C. MacKinnon	

(Teller.)

Majority against—1.

Amendment on the amendment thus negatived.

The Hon. H. K. WATSON: I move—

> That the amendment be amended by adding after paragraph (c) the following:—
>
> (d) Costs of the hearing shall be at the discretion of the Court.

The Hon. E. M. DAVIES: I do not propose to raise any opposition to the amendment other than to say that I do not think it is worth anything at all. My amendment made it mandatory that costs should be allowed whereas this amendment leaves it to the discretion of the court.

Amendment on the amendment put and passed.

The Hon. H. K. WATSON: I should now like to direct my remarks to the major question which the Minister discussed when moving the amendment. I am still not happy about the whole of this new section, and I cannot help feeling that the Bill should remain as it is, subject to the restoration of the regulating power which has existed in section 35 of the Act for so many years. We have only to read the regulation which was gazetted to realise why it was void for uncertainty. Under the regulation it would have been quite competent for the board to say that a hotel should put a particular class of equipment on each floor, and to direct that people should do so and so; whereas other regulations made under the Health Act, and so on, set out exactly what is required.

The regulation which was declared void for uncertainty gave the board unlimited power to say that certain people had to do such things as were directed by the chief fire officer from time to time. Matters such as that should not be left to direction; they should be listed in the regulation.

It is all very well for the Minister to say that if the amendment as amended is not agreed to the Fire Brigades Board will have no power. The answer is that if this new section is inserted in the Act, the board will have endless power which is more or less undefined. That is one of the reasons why this still does not appeal to me.

The Hon. J. G. HISLOP: All the information I have been able to obtain up to date coincides exactly with what Mr. Watson has said. The general opinion appears to be that there is nothing wrong with the power to make regulations, but it is the manner in which the regulation was framed that has caused all the trouble. Virtually all that the regulation did was to say that a person should do whatever the chief fire officer directs.

The Hon. F. J. S. Wise: Not knowing what that might be.

The Hon. J. G. HISLOP: Obviously there was room for uncertainty. We have played about with the question of appeals, and I voted for Mr. Davies' amendment because there would be no possibility of an individual winning an appeal. We have been talking a lot of nonsense about appeals because, if this new section is agreed to, the board will have absolute power to order what it likes; and, even though there might be a right of appeal, what could an individual appeal against? He could not appeal against absolute power, and so there would be no possible chance of his having any costs awarded to him. The judge would simply refer to the Act and say that the board had absolute power to do what it liked. I think this is still too dangerous to put into the legislation, and I think the Committee should maintain the attitude it adopted previously—that is, if the Fire Brigades Board wants to have regulations, let it state its requirements in a definite form.

The Hon. A. F. GRIFFITH: Yesterday Dr. Hislop said that the board was commercial in its outlook. The board has assured me that it is not commercial in its outlook, and anyone inquiring about fire-fighting equipment is not told the names of any particular equipment. Now we find Dr. Hislop saying that there is no possibility of anybody being successful in an appeal. Can that honestly be believed?

The Hon. H. K. Watson: I think there is a lot to be said for that point of view.

The Hon. A. F. GRIFFITH: I do not. If we agree to this new section as amended, the board will simply be able to order—

The Hon. J. G. Hislop: Anything it likes.

The Hon. A. F. GRIFFITH: Not at all. Dr. Hislop will persist in exaggerating. The section does not say that the board can do anything it likes. It does not say anything about ice creams—and that is anything one likes—to take it to the ridiculous extreme.

The Hon. J. G. Hislop: Keep to the Bill!

The Hon. A. F. GRIFFITH: I am keeping to the honourable member's words. He said, "Anything it likes." This proposed new section lays down what the board shall do.

The Hon. H. K. Watson: But there is not much left.

The Hon. A. F. GRIFFITH: It can only order a person to do something in regard to fire-fighting equipment, and the Committee has written into the section a right of appeal. Mr. Davies wanted to write into the section something with which I have some sympathy in principle, but for the reasons I gave I voted against it. The amending clause says that the magistrate or the judge can agree with the decision by the board. It can be altered or varied. That is the basis of the appeal. On the question of section 35(n) I would like to read what Mr. Hatfield had to say—

> The Western Australian Fire Brigades Board is a body corporate established by the Fire Brigades Act, 1942, and amendments. Section 35 of the Act empowers the Governor to make regulations for various purposes relevant to the Act and some of these purposes are set out in section 35 (n) which reads as follows:—
>
> > The Governor may make regulations for all or any of the following purposes:—
> >
> > > (n) prescribing the various apparatus and appliances for saving life and property at fires to be kept and maintained on or in all premises

excluding private dwellings which premises shall not include flats.

Purporting to act under the powers conferred by section 35(n) the Governor made the following regulation dated 8th February, 1946, viz:

Regulation 230

(a) Subject to para (c) hereof, every owner or occupier of any premises (other than private dwellings) shall, when directed so to do by the Chief Officer by a requisition in writing signed by him and served upon such owner or occupier provide, keep and maintain in good order and condition and ready for immediate use in, on or about such premises such apparatus and appliances for saving life and property at fires occurring in, on or about the said premises as may be specified by the Chief Officer in such requisition.

(b) Any person who having been served with a requisition as aforesaid fails or neglects within the time fixed by such requisition to comply with the requirements thereof shall be guilty of a breach of these regulations.

(c) Provided that any person who is aggrieved by any requisition served upon him under this regulation may within seven days after receipt by him thereof appeal against such requisition to a magistrate sitting as a Court of Petty Sessions within the district in which the premises referred to in the requisition are situated, and no proceedings shall be instituted against such person pending the hearing of his said appeal.

This regulation and the relevant section of the Act namely section 35 (n) are under fire because of a decision given in December last by Mr. F. E. A. Bateman in an appeal by the manager of the Adelphi Hotel against a direction given by the Chief Officer, Fire Brigades, to him to install 18 2-gallon soda acid or water pressure type fire extinguishers.
The magistrate held that Regulation 230 was void for uncertainty and I am now asked to advise as follows:—

(1) Is Regulation 230 a proper exercise of the power conferred by section 35 (n) of the Act?

(2) If Regulation 230 as it now stands is not a proper exercise of power conferred by section 35 (n) what is the proper remedy?

(3) Assuming that the existing Regulation 230 could be changed and be regarded as a proper exercise would an appeal against the magistrate's decision be justified?

I propose to deal with question 3 first and I answer the above mentioned questions in the following order:—

Question 3.

If an appeal was to be made against the magistrate's decision such an appeal would have to be made within one month of the date of the decision viz. 17th December, 1952, and in any case at the present time whether I am of the opinion that there was or was not a ground of appeal the time for appeal has expired and in my opinion there is no justification for the time being extended.

However, I am of the opinion that an appeal against the magistrate's decision would not succeed. I think that it is likely that an Appeal Court would uphold the decision of the magistrate and conclude that the regulation itself was void for uncertainty.

The Hon. H. K. Watson: That is what I have been trying to explain all afternoon.

The Hon. A. F. GRIFFITH: To continue—

The principles which courts adopt in the interpretation of regulations are well known and have long been established and they were recently dealt with by the Full Court of Western Australia in the case of Anchorage Butchers Ltd. v. Law reported in Vol, 42, W.A.L.R., at page 40. This is a case in which a regulation by the Perth City Council under the Health Act required vehicles transporting meat to be constructed of "wood or approved metal."

I do not propose to confuse the matter by quoting from the Judgment in this case but the principles laid down briefly are:

(a) The person concerned should be able to obtain some indication from the Regulation as to what is required and

(b) there should not be any scope for discrimination or inequality in application of the Regulation,

In this particular Regulation there is no standard at all indicated by the Regulation and there is neither a maximum nor a minimum number or any indication of the type of extinguisher that might be required.

Furthermore the Chief Inspector could require of any two adjoining buildings of exactly the same dimensions and structure totally different standards. Assuming that alongside the Adelphi Hotel there was the "Hotel Splendide" of the same size and constructed of the same material as the

Adelphi, the Chief Inspector could order say 600 fire extinguishers in the Adelphi Hotel and 6 in the Hotel Splendide.

The regulation itself gives no indication of the type or nature or quantity or standard that may be reasonably expected and for that reason I think that it would succumb to the accusation of being vague and uncertain.

The Hon. F. J. S. Wise: Does not that lead to the frailty of the regulation rather than of the law?

The Hon. A. F. GRIFFITH: To conclude the remarks contained in this statement—

It is true that the wording of the regulation itself is not uncertain in that it categorically requires the owner "to keep and maintain in good order and condition ready for immediate use such appliances as may be specified by the Chief Officer in such Requisition" but as there is no indication in the Regulation of the actual limits of the duty or obligation of the occupier I think the regulation might well be held to be tainted.

For that reason I advise that in my opinion if the time for appeal had not expired an appeal against the Magistrate's decision would have only a doubtful hope of success.

As I said earlier, Mr. Hatfield's advice is that a new section 25A be written into the Act and that it be done in a legislative manner rather than by regulation because there is then no uncertainty. The board gives a direction and, if the person concerned is not satisfied, there is an appeal to a court of petty sessions or a judge. The costs can be awarded at the discretion of the court. To my mind that is far more satisfactory.

Sitting suspended from 3.54 to 4.13 p.m.

The Hon. J. G. HISLOP: I am grateful to the Minister for reading out Mr. Hatfield's opinion and for making it so clear that what Mr. Watson and I have been telling members was completely factual. The difficulty does not lie in the Act but in the power to make regulations. I maintain that the power to which I am referring is so wide that it will not be possible for a person to appeal against it. This power is wider than the regulation.

The judge or magistrate has the final say, and I maintain that a person would have no chance of winning an appeal. I believe that this proposed new clause should not be inserted. The powers will have to be defined. The regulation failed entirely because it did not define what was wanted, so that the individual did not have any idea of what was expected of him. What we are asked to do is to insert a clause which will do exactly what the regulation did—it gave a man no idea of what was required; and it provided that the Fire Brigades Board, through its chief, could order what it considered necessary to ensure that adequate precautions were taken. It seems to me that this provision must fail the same as did the regulation. I believe it would lead to much more legal discussion than was necessary under the regulation.

Members must be astonished to realise that the Minister stated that six years had elapsed since this board found that the regulation was void. Yet in that time—until now, six years later—it did nothing to have the legislation amended. It seems to me extraordinary that a board could act in that manner. It must be remembered that this is the board to which it is desired to give absolute power. I would not for one moment agree to vote for this amendment.

The Hon. A. F. GRIFFITH: Dr. Hislop made two statements, which I wrote down. The first was that "this power is wider than the regulation." He then went on to say that the clause did exactly the same as did the regulation. He cannot have his cake and eat it.

The Hon. J. G. Hislop: Do not misinterpret me.

The Hon. A. F. GRIFFITH: I am not misinterpreting the honourable member. Dr. Hislop said, firstly, that the power was greater than the regulation, and then he said the clause did exactly the same as did the regulation. That is not the case at all. I repeat that we in this House have on many occasions objected to government by regulation. Dr. Hislop has been one of the leaders in that contention; and to a very large extent I agree with him.

Every member in this Chamber has at some time objected to government by regulation because sometimes we do not have an opportunity to study a regulation until six months after it has been made. A regulation may be made the day after Parliament rises, with the result that Parliament is deprived of the opportunity of doing anything about it for six months. The proposed new clause 5 stipulates what the board shall do; and it provides that if a person is aggrieved at an order made by the board, he shall have the right of appeal. Dr. Hislop says there is no chance of his being successful if he does appeal.

The Hon. J. G. Hislop: That is true.

The Hon. A. F. GRIFFITH: I do not think so. I propose to adhere to my original contention, and I hope the members of the Committee will agree with me. If not, I will accept the decision that is made. An aggrieved person may appeal within 21 days. We altered the number of days in which to appeal from seven to 21 at the request of Mr. Watson. A person may now appeal against the direction of the board.

The Hon. J. G. Hislop: Without any chance of succeeding.

The Hon. A. F. GRIFFITH: That is the opinion of Dr. Hislop, but I do not believe anyone is going to share that opinion. On

what basis can Dr. Hislop be the judge before a case goes before the court?

The Hon. J. G. Hislop: It is a reasonable assumption.

The Hon. A. F. GRIFFITH: It is not at all reasonable to suggest that before we know what the action is going to be we know the result. That is a most unreasonable point of view. Proposed new section 25A (4)(a) provides that a person may appeal on the ground that the things directed to be installed and provided in or upon the premises are not reasonably required by the board. My interpretation of that is that the court will hear the appeal and will present its case to the magistrate or the judge who will either uphold the direction, if he feels it reasonable, or vary it if he thinks it unreasonable.

I hope the Committee will agree to the insertion of this clause. The alternative is to revert to a state of affairs such as has existed.

The Hon. E. M. HEENAN: I am always appalled when I read that certain liners have arrived at Fremantle with faulty lifeboats, because I always envisage a great tragedy which might have occurred. People who allow that state of affairs to exist do not receive my sympathy and do not deserve it. Looking through this proposal I believe it is a very sensible one. I feel that the Fire Brigades Board is a competent and responsible authority composed of men who know their business and are reasonable in their outlook. I like this clause also because it provides for a right of appeal.

Although I hold this board in high esteem, no board is perfect; and some people—no matter who they are—can become unreasonable at times, especially when directing other people to spend money. The right of appeal possibly does not amount to much because, as the board is competent and reasonable, it is unlikely to direct that anything unfair or unreasonable be installed or altered. In these circumstances I can quite believe that most—if not all—appeals would not be successful. However, the magistrate will have fairly far-reaching powers and it will be possible for him to confirm the order, or vary it.

I find myself in agreement with the Minister on this matter, because all reasonable precautions should be taken to prevent the tragedies about which we read from time to time. Fortunately they do not occur here, but in other parts of the world where hundreds of people have met their deaths—and usually because of someone's neglect.

I do not think the Minister would lose anything by agreeing that another ground for appeal should be the cost of complying with such a direction, if it caused excessive hardship. I support the Minister's contention that these words should be written into the Act.

The Hon. J. MURRAY: I believe the Minister has tried to tie up all the loose ends in regard to this question. He has met Dr. Hislop and Mr. Watson in some measure, and has met the Chamber in a general way. Like Mr. Heenan, I have often been concerned at ships arriving at Fremantle and having their lifeboats condemned; particularly when I realise what could happen on a long voyage when such equipment is inefficient or unsafe. The amendment merely seeks to ensure the safety of all sections of the people. Dr. Hislop and other members have stressed what might be the cost if the board got out of step; but my experience of the board is that it is extremely circumspect and keeps its feet on the ground.

I refer members to the Timber Industry Regulation Act, which is all-powerful in regard to this question. Under it, one man can go into a sawmill in any part of the State, and tell the management just what they must do in regard to fire protection, and there is no appeal at all.

The DEPUTY CHAIRMAN (the Hon. G. C. MacKinnon): Order! I trust the honourable member will not prolong his debate on forestry matters.

The Hon. J. MURRAY: I am dealing with the question of appeals against what people might think to be dictatorial action on the part of the board. Under the Act which I have mentioned, the man who issues the order is the one who decides whether or not it is reasonable. I do not think anyone should be fearful of the effects of what the Minister is proposing.

The Hon. L. A. LOGAN: There are two important points that have not yet been discussed. First of all I ask the members who oppose the suggested wording of proposed new section 25A, what their reaction would be if the Committee refused to accept the proposed new section and tomorrow the board promulgated its phraseology as a regulation.

The Hon. J. G. Hislop: The board would lose, in any court.

The Hon. L. A. LOGAN: Of course, and that is why the provision must be placed in the Act. It is impossible to lay down a standard in this regard, and so it is necessary to give the board power to direct that whatever equipment it thinks necessary shall be installed. No regulation to that effect would be upheld in court; and when we go back to Mr. Hatfield's reasons, the position becomes obvious.

The Hon. J. G. HISLOP: Through you, Mr. Deputy Chairman, I ask the Minister whether it is to be an established principle in future that when a board or some administrative body cannot define its needs, it shall have absolute power given to it by Parliament?

The Hon. L. A. LOGAN: I do not think there is any question of absolute power. The power is challengeable, and so it cannot be absolute.

The Hon. H. K. WATSON: After listening to Mr. Murray, it occurs to me that the Fire Brigades Board regulation may not be the only one void for uncertainty. In regard to the illustration given in respect of lifeboats, the answer is clear. When the ships arrive at Fremantle the lifeboats have to be repaired, because the regulations under the Navigation Act are not void for uncertainty. As Dr. Hislop says, it is six years since the court declared this regulation void for uncertainty, and during the intervening period apparently nothing has been done.

The Hon. A. F. Griffith: You got into trouble last time you made that accusation.

The Hon. H. K. WATSON: A fortnight ago the Committee considered the clause as it stands on the notice paper, and voted against it. I believe the Committee should on this occasion hold to its decision of a fortnight ago.

Question (Council's alternative clause as amended) put and a division taken with the following result;—

Ayes—12.

Hon. J. Cunningham	Hon. H. L. Roche
Hon. A. F. Griffith	Hon. C. H. Simpson
Hon. E. M. Heenan	Hon. J. D. Teahan
Hon. R. F. Hutchison	Hon. J. M. Thomson
Hon. G. E. Jeffery	Hon. F. D. Willmott
Hon. L. A. Logan	Hon. J. Murray

(Teller.)

Noes—10.

Hon. C. R. Abbey	Hon. R. Thompson
Hon. E. M. Davies	Hon. H. K. Watson
Hon. J. J. Garrigan	Hon. W. F. Willesee
Hon. J. G. Hislop	Hon. F. J. S. Wise
Hon. R. C. Mattiske	Hon. W. R. Hall

(Teller.)

Majority for—2.

Question thus passed; the Council's clause, as amended, agreed to as alternative to the clause deleted.

Resolution reported, the report adopted, and a message accordingly returned to the Assembly.

LAND TAX ASSESSMENT ACT AMENDMENT BILL

Second Reading

Debate resumed from the previous day.

THE HON. F. J. S. WISE (North) [4.50]: When introducing the Bill the Minister in charge of the House said that it was a straightforward measure to overcome any doubt that might exist as a result of the alterations to titles of certain Commonwealth Acts that affect the exemptions made under those Acts which govern pensions and which apply to pensioners in this State.

The Minister drew attention to the fact that the Crown Law Department had doubts as to whether section 14 of the Interpretation Act would permit the alteration of the titles of Acts and yet would still be valid according to State law. With respect to the Crown Law opinion, I suggest that it is not section 14 which matters, but the definition of the word "Act" to be found on page 161 of the Interpretation Act. It is perfectly clear that Acts not passed by the State Parliament of Western Australia cannot come within the scope of the Interpretation Act, because it defines the word "Act" as follows:—

> "Act" includes any Act or Ordinance passed by the Parliament of Western Australia or by any Council heretofore having authority or power to pass laws in Western Australia, such Act or Ordinance having been assented to by or on behalf of His Majesty.

That is the part of the Interpretation Act that matters, coupled with section 14 of the same Act which is inter-related to the Acts passed by the Parliament of this State. The Minister apparently thinks there is some force in my argument. However, that is quite by the way, because I think the Bill should pass without any question as to its object to give to pensioners protection in regard to exemptions, notwithstanding the altered titles of Commonwealth Acts that affect pensions.

That is the crux of the situation; namely, to ensure that no pensioner is deprived of the concessions that are granted to him under various Commonwealth Acts. That being so, I support the Bill.

Question put and passed.

Bill read a second time.

In Committee

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

NATIONAL FITNESS ACT AMENDMENT BILL

Second Reading

Debate resumed from the previous day.

THE HON. L. A. LOGAN (Midland—Minister for Local Government—in reply) [4.56]: Among those members who raised one or two points when speaking to this Bill, Mr. Lavery wanted to know how the members of the National Fitness Council are appointed. Under section 4 of the Act, the members of the council, with a limited membership of 21, are appointed by the Governor from a list of names submitted to him by the Minister, except those *ex-officio* members; namely, the Minister for Education, the Director of Education, the Commissioner of Public Health and the Town Planning Commissioner.

Mr. Lavery also mentioned that the police boys' clubs were granted £4 for each boy or girl in that organisation, whereas the National Fitness Council was granted only £2 for each boy or girl. When all the

circumstances are taken into consideration, it is extremely difficult to assess how much is paid to each organisation, because their activities vary so greatly.

Mr. Bennetts wanted to know whether a country representative was on the National Fitness Council, and I have much pleasure in informing him that Mr. A. R. Kelly is a country representative. He has one particular interest; namely, the Forest Youth Camp, which is held at Pemberton. He makes it his business to look after that camp which is conducted under the auspices of the National Fitness Council.

Several issues were raised by Dr. Hislop, one in particular being that no report has been laid on the Table of the House since 1952. Unfortunately, I must admit that that is correct, and apparently one can blame only the Minister for Education, because the National Fitness Council report is submitted to him every year; in fact, it is signed by him. However, although a report has not been laid on the table since 1952, there is no reason why the members of this House or of another place should not have a copy of each annual report, because copies are forwarded to them every year.

The Hon. E. M. Davies: That is right.

The Hon. L. A. LOGAN: The list of members' names have been checked in the book used for this purpose at the Education Department, and all the names are listed. Therefore, every member of Parliament should have in his possession a copy of each annual report of the National Fitness Council.

We have put machinery into action to ensure that, in future, the reports of this organisation will be laid on the Table of the House each year; and that, at the earliest opportunity, the copies of those reports which have not been presented to Parliament since 1952 will be laid on the Table of the House. I have a copy of the 1958 annual report in my hand at the moment and from it I note that in 1958 the grant from the Commonwealth Government, made direct to the National Fitness Council, amounted to £5,742. This amount was advanced for the development of youth and community work with the main emphasis to be on the 14-25 years "left school" youth group. A further grant of £2,833 was made direct to the Education Department to stimulate the physical education programme in schools and at teachers' colleges, and to develop camp schools.

The Hon. J. G. Hislop: Was that from Commonwealth money?

The Hon. L. A. LOGAN: Yes. It was advanced to the Education Department to stimulate the physical education programme in schools and at teachers' colleges, and to develop camp schools.

The Hon. J. G. Hislop: It would not go into schools.

The Hon. L. A. LOGAN: No; but what has been spent on teachers' colleges, because of the training, goes back to the schools. I think it is pertinent to remind members at this stage that it was the Commonwealth Government which initiated this movement 14 years ago. Despite the fact that the value of money has altered considerably over that 14 years, and despite the fact that every State in the Commonwealth has attempted to get some change in valuation made, the Commonwealth Government has refused to alter its contributions to bring them up to present-day standards. I think it is pitiful that the Commonwealth Government, which initiated such a movement, should fall down on its job.

The Hon. E. M. Davies: Tell them what you think of them.

The Hon. L. A. LOGAN: Every State in the Commonwealth has endeavoured to force this issue. The committe is broken up into about 18 different sub-committees.

The Hon. J. G. Hislop: Have you any record of attendances at the council?

The Hon. L. A. LOGAN: I have tried to check on that aspect, but I have not been able to ascertain the number of attendances. However, I have been told that the councillors have been regular in their attendances at meetings and have shown a great enthusiasm for their work. I have also been told by the director (Mr. Halliday) and Mr. English that they cannot find fault with the members of the committee and sub-committees in their approach to their job.

The work of the council covers many aspects, one of which, at the moment, is the provision of camping facilities. The council has quite a large project in hand at Point Peron at the present time. Most of this land has been leased from the Commonwealth Government. A lot of work will have to be done before Point Peron reaches the stage of development which the council desires. This area looks very nice on the town-planning map; but when one sees it at the moment it presents an entirely different picture. The Point Peron area is sublet by the National Fitness Council to different groups of people.

The council also has camping areas at Sorrento and Bickley, and at one or two other places around the State. The amount subscribed by the State Government in 1958 was £1,000 to develop camp schools and to give assistance to outback children. An amount of £200 was given for the training of youth leaders in the country, and £500 for the development of activities in connection with Commonwealth Youth Sunday. Apart from that, the Government has supplied the National Fitness Council, and the Physical Education and Youth Education branches of the Education Department with headquarters at 50 James Street, Perth; and through the Education Department's vote it has

paid the salaries of all, with the exception of the office staff which consists of four girls.

Not all of the money has been spent in the city. Carnarvon was granted £18, Collie £50, York £50, Pemberton £80, Boyup Brook £80, Busselton £50, Mt. Pleasant £100, Wagin £60, Geraldton £80, Bassendean £50, and Riverton £50. Therefore, members can see that quite a large sum of money has been spent in country areas.

The question has been raised about the inability to terminate the period of appointment of members already on the council. Unfortunately, that is one of the weaknesses which has been in the Act since it was introduced. Unless a person voluntarily retires, it is not possible to do anything about the position; and a stage is reached where elderly people hold office on a council which is actually for the benefit of national youth. I think there is a need for younger men and women who have a greater vision than elderly people.

The amendment will rectify that position over a period of time. It is not possible to do this straightaway; but in the future any appointment to the council will be for a period of five years, and eventually the difficulty will be overcome. I think I have covered the main points raised. I will endeavour to make sure, through the Minister for Education, that in future reports will be laid on the Table of the House.

In Committee

The Deputy Chairman of Committees (the Hon. E. M. Davies) in the Chair; the Hon. L. A. Logan (Minister for Local Government) in charge of the Bill.

Clause 1 put and passed.

Clause 2—section 4 amended:

The Hon. J. G. HISLOP: I wonder whether the Minister would refer this clause to the Crown Law Department to see whether he has power to terminate this council and reconstitute a new one. From what I can gather by reading the clause, it simply means that new appointments are to be for five years, and all existing appointments are for life. Surely that was not the intention of Parliament when the council was first constituted. It would not make any difference to the work of the council if it were terminated for a period of 30 days and then reconstituted on a five-year basis.

The Hon. L. A. LOGAN: Members of the council hold office during the pleasure of the Governor. It is not thought necessary at this stage to remove any of the present members from the council. However, there are three vacancies at present, and it has been decided that these and future appointments will be subject to a period of five years.

The Hon. J. G. HISLOP: If the Minister acted upon my suggestion, he could reappoint any members he desired for a period of five years.

The Hon. L. A. LOGAN: I appreciate the suggestion put forward by the honourable member, but I feel that quite a lot of redrafting would be necessary to implement it. Therefore, I suggest the clause stand as printed.

Clause put and passed.

Clauses 3 to 7 and Title put and passed.

Bill reported without amendment and the report adopted.

STATE HOTELS DISPOSAL BILL

Second Reading

Debate resumed from the previous day.

THE HON. E. M. HEENAN (North-East) [5.15]: I cannot agree with the proposition stated by the Minister when introducing the Bill that the State has no right to engage in the business of building and conducting hotels. Figures were quoted by him to indicate that over the years this department has not made any great profits from its conduct of hotels. However, again I cannot agree with him that the matter of profits is the only criterion for consideration. The fact is that many years ago, when the outlook in certain districts of the State was by no means rosy, the Government of the day erected fine hotels which, over the years, have rendered good service to the local comunities and to the travelling public.

From my experience of the State hotel at Gwalia, I can say it has generally been well conducted, and that the service provided in the way of meals and accommodation has been of a good standard.

The Government, in pursuance of its policy, has decided to dispose of the State hotels—at least some of them—and so we have this Bill before us. It would appear from the composition of the House that the Government will be able to carry out its intention.

The Hon. A. F. Griffith: I am not so sure of that from what has been happening to me in the last few days.

The Hon. E. M. HEENAN: Although I cannot express agreement with the Government's decision to dispose of the hotels, my feelings in the matter are tempered somewhat by the provision in the Bill giving the local communities the first option to purchase the hotels.

In this regard I seem to recall that the Minister, in the course of his remarks, indicated that none of the local communities so far appeared to be interested. In this respect I point out that I, as one of the representatives of the Gwalia community, wrote to the Minister controlling the State Hotels Department some months ago, when this matter was first publicised,

suggesting that if the hotels were to be sold, the community of Gwalia be given the first option of purchasing the hotel in that town. Subsequently I received from the Minister a letter advising me that such a proposition would receive his approval.

The Hon. A. F. Griffith: When was this?

The Hon. E. M. HEENAN: It was at least a couple of months ago. The community at Gwalia are giving the matter their careful consideration.

The Hon. A. F. Griffith: I think that under the provision in the Bill they will still have an opportunity to take it over.

The Hon. E. M. HEENAN: I applaud clause 3, the proviso to which states—

> Provided the Governor shall sell or lease any of the hotels only to a community company until the expiration of nine months from the coming into operation of this Act and if within that period a community company makes an offer to purchase or lease an hotel at a satisfactory price, or on satisfactory terms, the Governor shall accept that offer.

That is a reasonable provision. Some communities may not be in a position to purchase these expensive hotels outright. The alternative of a lease for a fairly long period, should be carefully considered. I have in mind a district like Gwalia which is a very different proposition from a district such as that at Bruce Rock or Corrigin. Bruce Rock and Corrigin are situated in agricultural areas, and in the normal course of events they will grow. On the other hand, Gwalia is dependent on one mine; the justification for a township depends solely on the one mine, and the life of the mine depends on two factors —the amount of gold that remains in the mine, and the value of the gold per ton. The value is the price of the commodity; and it is fixed by the International Monetary Fund.

The Hon. A. F. Griffith: The gold will not be much good if it remains in the mine.

The Hon. E. M. HEENAN: No. I mention these matters to the Minister because it might be unreasonable to expect the community in a place like Gwalia to find a lot of money for the purchase of a hotel, whereas if they were given the opportunity to lease the hotel on reasonable terms and for a fairly long period, the proposition might be a safer one for all concerned. However, these are factors which, I am confident, the Government will bear in mind when getting down to details. I cannot, at this stage, speak on behalf of the Gwalia community and say whether or not it is their intention to embark on this business. They will have to make that decision themselves.

I point out that the second proviso to clause 3 seems to contradict the first one because, whereas the first proviso states that the Governor shall sell or lease any of the hotels to a community company within nine months, the second proviso states—

> Provided further that if at any time within the period of nine months the road board of the district within which the hotel is situated advises the Minister by notice in writing that in the opinion of the board it is not desired by the local community concerned to operate the hotel for the benefit of the district, the Governor may at any time after the receipt by the Minister of the notice sell or lease such hotel under and in accordance with the provisions of this Act to any person he thinks fit.

I interpret that as meaning that the local road board could, within a month or two, write to the Minister and express the view that the community was not interested in buying or leasing the hotel; and, provided the road board did that, the Government would be free to act on that advice and sell the hotel to some outsider.

The Hon. A. F. Griffith: I think the road board would act very carefully in the matter.

The Hon. E. M. HEENAN: I hope it would; but I would point out that in the area of Leonora-Gwalia, the road board is at Leonora. The township of Gwalia is a couple of miles away from there, and the interests of the two towns are divergent in many ways. I do not think for a moment that the road board at Leonora would flout the wishes of the people at Gwalia; I am just looking at the wording of the provision and criticising it.

Another provision I am somewhat critical of is contained in clause 6 which provides that the money received shall be paid into the tourist fund established under the Tourist Act, 1959.

My idea would be to pay the money into a fund controlled by the Licensing Court and have it applied towards the improvement and betterment of hotels in this State. I would restrict its application to the improvement and betterment of hotels, and perhaps the improvement of the Licensing Court itself. In other words, I would endeavour by this means to give the Licensing Court more standing; and more jurisdiction to enable it to do something practical towards the betterment of our hotels and the accommodation they provide.

We all know that a number of hotelkeepers are struggling to make ends meet, because costs are high, and the hotels have been losing trade in certain areas as a result of the growth of clubs. It cannot be denied that the owners of some hotels are not in a financial position to carry out the improvements and modifications that are vitally needed to bring their premises up to the standard on which we should insist today. In my opinion, some sensible

means must be devised whereby finance can be made available to some of these places, because it is in the public interest that they be improved.

Therefore my view is that the money derived from the sale of these hotels should be earmarked for the improvement of other hotels. If it goes into the tourist fund it will no doubt be put to good use, but I think its use should be restricted to the betterment of hotels. Those are my comments on the Bill. I presume it will be passed; but I urge the Government, through the Minister, to place every facility possible in the way of the local authorities to purchase or lease these places, because I think that will be to the good of all concerned.

On motion by the Hon. W. R. Hall, debate adjourned.

ADJOURNMENT—SPECIAL

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

That the House at its rising adjourn till Tuesday, the 13th October.

Question put and passed.

House adjourned at 5.32 p.m.

Legislative Assembly

Thursday, the 1st October, 1959

CONTENTS

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

CONDUCT OF THE HOUSE

Application of Standing Order No. 66

The SPEAKER: I would like to draw the attention of members, particularly the new members, to Standing Order No. 66 on page 50. There has been far too much movement about the Chamber recently and far too much irregular talk going on during debates. If the Standing Order is observed, there will probably be less talking while debates are in progress.