The production of dried vine fruits in this State has increased steadily from 1927 up to the present time. In 1927 production reached 1,576 tons, and in 1941 the figure was 2,924 tons. The peak production during that period was 3,908 tons in 1939. The figure is estimated this year to reach 3,613 tons. From 1927 to 1947 the increase in currants alone was from 1,158 tons to 3,058 tons. For sultanas the increase was from 118 tons in 1927 to 462 tons in 1947. For lexias the figures were, 300 tons in 1927, and 486 tons in 1947. The total tonnage increase for these three types of dried fruits was from 1,576 tons in 1927 to 3,613 tons for 1947. Those figures show that instead of languishing, as appeared to be the case in 1926, under the marketing legislation production increased by well over 100 per cent.

As I have said, it is the earnest desire of the growers that this legislation be re-enacted. The Act expired on the 31st March last and from that date up to the present time certain things were done which I suppose were illegal. It is proposed that this measure shall be retrospective in its application, so as to legalise those actions. Certain things were done and certain documents were executed as if the Act had not expired, but had continued in force, and it is therefore desired to give retrospective effect to the re-enactment of this measure. It is proposed that the Dried Fruits Act of 1926 shall, subject to the provisions of this measure, be deemed to have been in force continuously since 1926, and that no persons shall be liable to prosecution in respect of any act or omission that occurred between the expiry date of the lapsed Act and the commencement of operation of this measure. I move—

That the Bill be now read a second time.

On motion by Hon. C. G. Latham, debate adjourned.

BILL—INSPECTION OF MACHINERY ACT AMENDMENT.

Second Reading.

THE MINISTER FOR MINES (Hon. H. S. W. Parker—Metropolitan-Suburban) [5.45] in moving the second reading said: This is another short Bill, the object of which is to enable non-British subjects to be registered under the Act and obtain certificates. Section 59 of the Act provides that all applications for examinations shall be forwarded to the Chief Inspector of Machinery and, before the issue of any certificate, the candidate must produce a medical certificate, shall be a British subject and satisfy the board that his knowledge of the English language is sufficient to enable him to perform the duties required as the holder of a certificate. This applies to all types of engines.

Recently an American ex-Serviceman came here well qualified to carry on, but he could not be registered because he was not a British subject. Many people who are not British subjects are qualified and quite capable of holding certificates under the Act and it is desired that such people shall be able to get certificates. The provision in the Act probably crept in because the section was copied, or thought to be copied, from the Imperial Board of Trade Act dealing with marine engineers who, of course, must be British subjects. It seems to be quite anomalous that a man, merely because he is not a British subject, may not get a certificate under the Act to run some small engine. I move—

That the Bill be now read a second time.

On motion by Hon. G. Fraser, debate adjourned.

House adjourned at 5.47 p.m.

Legislative Assembly.

Tuesday, 9th September, 1947.

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

QUESTIONS.

POLISH NURSES.

As to Educational Standard and Assignments.

Mr. NALDER (on notice) asked the Minister representing the Minister for Health:

(1) How many Polish nurses have disembarked in Western Australia?

(2) If any, did they have to pass a dictation, English and arithmetic test on landing?

(3) What educational standard did they have to possess?

(4) To what hospitals in the metropolitan or country areas were they assigned?

The HONORARY MINISTER replied: I apologise to the hon. member for not answering these questions before. The fault is entirely mine. The replies are as follows:—

(1) Seven possessing nursing experience.

(2) No. They were ordinary passengers selected by the Catholic Church and approved by the Commonwealth Government.

(3) No fixed standard. They were all well educated and spoke English reasonably well.

(4) St. John of God Hospital, 3; St. Anne's Hospital, 1; Woodbridge Women's Home, 3.

FISH.

As to Quantities Caught.

Mr. KELLY (on notice) asked the Minister for Fisheries:

What were the individual and separate totals in pounds of (a) fish, (b) crayfish, (c) crabs, (d) prawns, caught in Western Australian waters for the year ended the 30th June, 1942, at:—Albany, Bunbury, Carnarvon, Fremantle, Geraldton, Mandurah, Perth and Shark Bay?

The CHIEF SECRETARY replied:

Departmental records show the production for calendar years only, and are related to the quantities landed in certain zones. The following figures show total production for the year 1942:

South Coast (Denmark-Esperance)—Fish, 324,246 lbs.

Lower South-West Coast (Augusta-Busselton)—Fish, 77,627 lbs.

Bunbury (Leschenault Inlet and Beaches)—Fish, 262,432 lbs; prawns, 378 lbs.

Mandurah (Peel Inlet and Beaches)—Fish, 403,520 lbs.; prawns, 21,768 lbs.

Fremantle (Long Point-North Beach)—Fish, 361,030 lbs.; crayfish, 12,000 lbs.; crabs, 156 lbs.

Swan River—Fish, 259,627 lbs.; crabs, 39,438 lbs.; prawns, 204 lbs.

Moore River-Jurien Bay—Fish, 59,781 lbs.; crayfish, 3,924 lbs.

Dongara—Fish, 21,894 lbs.; crayfish, 17,724 lbs.

Geraldton—Fish, 34,317 lbs.; crayfish, 63,516 lbs.

Abrolhos Islands—Fish, 60,751 lbs.; crayfish, 130,092 lbs.

Murchison River (Coastal Waters)—Fish, 13,235 lbs.

Shark Bay and Estuaries—Fish 504,696 lbs.

Carnarvon (Shark Bay-North-West Cape)—Fish, 63,080 lbs.

Totals—Fish, 2,446,236 lbs.; crayfish, 227,256 lbs.; crabs, 39,594 lbs.; prawns, 22,350 lbs.

KOOLAN ISLAND IRON-ORE.

As to Tabling File of Leases.

Hon. A. R. G. HAWKE (on notice) asked the Minister representing the Minister for Mines:—

Will he lay upon the Table of the House the file covering the Koolan Island mineral leases?

The CHIEF SECRETARY replied:

No, but the file will be made available for inspection by the hon. member at the Mines Office.

MILK.

As to Licensed and Unlicensed Treatment Depots.

Hon. J. T. TONKIN (on notice) asked the Minister for Agriculture:

(1) (a) How many licenses for milk treatment depots have been issued for the current year? (b) What are the names of the persons or firms to whom such licenses have been given?

(2) (a) How many unlicensed milk treatment depots are being operated with the permission of the Milk Board? (b) What are the names of the persons or firms operating unlicensed milk treatment depots?

The MINISTER replied:

(1) (a) Nil.

(b) Answered by (a).

(2) (a) Twenty (20).

(b) Westralian Farmers Ltd., Masters Dairy Pty. Ltd., R. M. Mounsey, W. Della, C. J. Kielman & Sons, Sheppards Dairy, Est. G. W. Birkbeck (deceased), J. Carrie, Est. F. J. Roberts (deceased), C. L. Wild, Brownes Ltd., City Milk Company, Arthur Smith, Albert Smith, F. S. Marchant, A. R. Nunweek, E. H. Mitchell, S. Famlonga, Powell's Coogee Dairy, Grant Bros., South-West Co-op. Dairy Farmers Ltd., Est. late J. Kelly.

BILLS (4)—FIRST READING.

1, Law Reform (Contributory Negligence and Tortfeasors' Contributions).

2, Coal Mine Workers (Pensions) Act Amendment.

3, Stipendiary Magistrates Act Amendment.

4, Companies Act Amendment.

Introduced by the Attorney General.

BILL—CONSTITUTION ACTS AMENDMENT (RE-ELECTION OF MINISTERS).

Third Reading.

THE ATTORNEY GENERAL (Hon. R. R. McDonald—West Perth) [4.44]: I move—

That the Bill be now read a third time.

Question put.

Mr. SPEAKER: I have counted the House and assured myself that there is an absolute majority of members present. I declare the question duly passed.

Question thus passed.

Bill read a third time and transmitted to the Council.

BILL—RURAL RELIEF FUND ACT AMENDMENT.

Report of Committee adopted.

BILL—PUBLIC TRUSTEE ACT AMENDMENT.

Second Reading.

THE ATTORNEY GENERAL (Hon. R. R. McDonald—West Perth) [4.46] in moving the second reading said: This, Mr. Speaker, is a machinery Bill designed to make certain amendments in order to facilitate the practical working of the Public Trustees Office. The Public Trustee in this State was established under an Act of 1941, and the passage of the intervening six or seven years has shown that, for the purposes of efficient and economical administration, it is desirable that certain amendments be made. Those in question have been recommended to me by the Public Trustee. Some of them were under consideration by my predecessor in office, but time did not permit those matters to be brought before the House.

The office of the Public Trustee deals with all the ordinary work of a private trustee company, but its field is rather wider than that, as it accepts estates irrespective of size or difficulty. It might not pay a private trustee company to administer a very small estate, and such a company would have the right to refuse to handle it, but the Public Trustee is there to render a service to the community and is prepared to take any estate, even a small one where it is necessary for it to be wound up in order to make a distribution of any property to which beneficiaries may be entitled or where, in some cases, if the property to be distributed may be very small, it is necessary to get the title to the land out of the name of the deceased person, in order that it may be dealt with in some manner which may be partly in the interests of the beneficiaries and partly to facilitate the work of Governmental departments such as the Titles Office, which otherwise would have land on their books without any person being authorised by law to deal with it.

With the permission of the House I will deal, as shortly as I can, with the amendments contained in the Bill, and in the Committee stage will explain any part of

any clause about which members may desire further information. The Public Trustee can obtain authority to intervene and deal with a deceased person's estate in any one of four ways. Perhaps I should say that there are four main methods by which he deals with such estates. In the first place, the Public Trustee may be appointed executor of a will. The testator may appoint the Public Trustee as executor, in which case he takes out probate and proceeds in the same way, in that respect, as would any other executor. In the second place, the Public Trustee may become administrator of an estate in respect of which no will has been left.

In the third place he may obtain from the court what is called an order to administer. When the trustee obtains an order to administer, he has exactly the same powers as if he had taken out administration in the ordinary way, as would a private administrator, but in the case of the Public Trustee the procedure, by way of an order to administer which is made by the court, has been inserted in the Public Trustee Act because it is a simpler and less expensive way to empower the trustee to act than would be the case if he went through all the procedure necessary to obtain letters of administration.

The fourth way in which the Public Trustee may have authority to intervene in an estate is when he files what is called a notice of election; that is to say, in the case of small estates, the value of which does not exceed £500—he may, in any case where he would be entitled to an order to administer—file at court a notice saying that he has elected to undertake the administration of the small estate and, upon that notice being filed in the court, he becomes authorised to take the necessary steps to protect and administer the assets of the estate.

Thus there are four main ways, firstly, to take out probate as an executor appointed by the will in the ordinary way; secondly, to take out letters of administration where there is no will in the same way as a private person would do who is next-of-kin of the deceased person; thirdly, to proceed by the simplified method of obtaining from the court an order to administer, and fourthly, to proceed in the case of small estates by a still more summary method by which he files notice that he has undertaken to administer the estate.

Without going into details, it may be said that, except in the case where the Public Trustee's right to administer is perfect by reason of his having been appointed executor of the will by the testator, the rights of beneficiaries and other people who may normally administer the estate are fairly well preserved by the present Act. If people who would normally administer an estate desire afterwards to come in and take over the administration from the Public Trustee, who has been acting meanwhile, then there are fairly reasonable powers in the Act to enable the court to require the Public Trustee to hand over the estate to the wife, husband, or next-of-kin, as the case may be, to complete the administration. The Act is a technical one and not easy to follow, and some study of it is necessary in order to ascertain how all these various procedures fit in.

The first amendment proposed is where a person dies, having left a will or not having left a will, then, in certain cases, the Public Trustee may apply for an order to administer the estate. That is under Section 10 of the Act. The cases where the Public Trustee may apply under Section 10 are set out in the section. For example, where nobody applies for probate or administration within six months of the death of the person, the Public Trustee may apply for an order to administer. If the estate or any substantial portion of it is of a perishable nature or in danger of being lost or destroyed, the Public Trustee may apply for an order to administer. If there is no executor or next-of-kin resident in the jurisdiction—that is, in the State—prepared to undertake the administration of the estate, then as there is nobody else to discharge the duty of collecting and distributing the estate and paying the debts, the Public Trustee has power to apply for an order to administer. There are other cases mentioned in Section 10, but members will gather from what I have said that the Public Trustee does not interfere where some other person can lawfully undertake the administration of the estate, but he can and does intervene where nobody is prepared to undertake the care of the estate or where somebody procrastinates and the estate is in danger of being wasted through lapse of time.

Under Section 10, when a person dies without making a will, it is now necessary, before the Public Trustee can intervene and obtain an order to administer, to notify all the next-of-kin. Under the law, when a person dies without leaving a will, the person entitled to administration is the husband or wife of the deceased or the nearest of kin, and it is a matter of delay and expense under present conditions, where perhaps the case is urgent, for the Public Trustee to have to endeavour to track up all the next-of-kin and send out notices to all of them stating that he intends to apply for an order to administer.

Hon. E. Nulsen: Some of them may be in a foreign country.

The ATTORNEY GENERAL: I do not think that would matter; I believe that the Public Trustee is only obliged to notify the next-of-kin who are in the State, but it is very difficult to be sure that he has found all the next-of-kin and where they are, and time elapses before they can be notified. Therefore we propose that it shall be sufficient to notify the next-of-kin who normally would be entitled to administration and the Public Trustee is not to be compelled to follow up all the next-of-kin. Further, this section is to be extended to cover the case where a private person has obtained probate or letters of administration and has then died, leaving the estate partially unadministered. Where the estate is of less than £500 value, it will be treated in the same way as other small estates and the Public Trustee, in any case where he would be entiled to an order to administer, may in respect of that small estate proceed by way of election, which is the simplest and most summary process, and file a notice with the court that he has undertaken to administer the estate which has remained unadministered by reason of the death of the executor or administrator.

The next matter involved relates to Section 12 of the Act, which provides that a man who may be an executor appointed by the will or a person who may be entitled to administration through the court where there is no will may, instead of undertaking the administration of the estate himself, appoint the Public Trustee to undertake its administration on his behalf. In other words, he says, "I don't want the trouble; although I am entitled to probate or administration, I will appoint the Public Trustee to do this work instead of me." In that case it is provided, for the same reason of simplicity, that the Public Trustee may apply for an order to administer, being a simple inexpensive procedure, instead of going through the full procedure of obtaining letters of administration. The third amendment is for the same purpose. Under Section 13 of the Act it is possible for the Public Trustee, or any other person interested, to apply to the court to remove an executor or administrator already appointed if there is good cause for removing such an appointee; for example if he is failing to carry out his duties. On the same line as the prior amendments, the Public Trustee—if the existing administrator or executor is removed—may be allowed to obtain an order to administer, being the same process, instead of applying for letters of administration, which is the full and more expensive procedure.

The next section referred to is Section 14 of the Act. That is the section which deals with small estates not exceeding £500 and it applies to people who leave no will as well as to people who may have left a will. If the estate is under £500 and the person entitled to probate or administration in the ordinary way does not apply for it then after a certain time, or within certain limitations, the Public Trustee may step in and file a notice under which he elects to administer the estate, and he thereupon becomes entitled to take possession of the assets and to distribute in accordance with the law.

Under Section 18, to simplify procedure and to save expense where a child under 21 is entitled to money not exceeding £100 from an intestate estate, the Public Trustee may pay out that £100 to the child or to somebody on his or her behalf without obtaining an order of the Court, which is the normal necessary procedure. It is desired by this amending Bill that this discretionary power to pay out money up to £100 for the benefit of a child under 21 shall apply not only where no will is left, but shall apply also where a will has been left. There seems to be no reason why the same discretionary power to save applying to the court for leave to pay the money to a child should not be given when

the estate is a testate estate as well as when it is intestate.

The next amendment deals with Section 30 of the principal Act. Under Subsection 4 of that section in the case of the estates of insane or incapable persons which are in the hands of the Public Trustee—and he deals with estates of such people in general—the Public Trustee now has power to distribute property not exceeding £100 without going through the usual formula of taking steps through the court; but as it now stands the Public Trustee can only do this in the terms of Subsection 4 of Section 30 where no debt has been proved against the insane person and no debt remains unsatisfied. The Public Trustee has found that it is exceedingly difficult for him to be certain that the deceased patient had no debt unsatisfied. That is something he could hardly say, and the present amendment is to enable him to pay out moneys in the estate of such a person not exceeding £100 to the people appearing to be entitled thereto at his discretion, after paying the funeral expenses and any debts of which he has knowledge; but it means that he would not be liable if subsequently a debt turned up of which he had no notice.

The next amendment deals with Section 38 of the principal Act. By this section provision is made for the remuneration of the Public Trustee for the services he renders. He can charge up to 2½ per cent. on the corpus or capital of any estate and he can charge 5 per cent. in respect of income of the estate which passes through his hands. It has been found in the peculiar position of a Public Trustee that he is called upon quite frequently to handle very small estates. For example, he handles an estate worth £40, and all he can charge by way of commission on the capital is 2½ per cent. or £1, and such charge would of course mean quite a considerable loss to the Public Trust office.

It is therefore suggested that in such cases the charge by the Public Trustee by way of commission on capital or corpus shall be 2½ per cent. or £5, whichever is the greater. No person with a small estate could normally obtain anybody to undertake the responsibility of collecting and administering the estate and paying out the debts and transferring to the beneficiaries for less than £5; and it is thought to be reasonable that if the Public Trustee is rendering a service to these small estates—and he is—he should not be called upon to render that service at as big a loss as is involved at the present time, and that he might reasonably be allowed to charge a minimum of £5 by way of commission on capital or corpus for his services in collecting the estate and winding it up.

The last amendment that I will detain the House with relates to Section 40 of the principal Act. The Public Trustees of New Zealand and the Australian States have a system which I think is peculiar to Public Trustees. They have power to establish what is called a common fund. Whereas an ordinary trustee will keep all the estates completely separate and all the moneys in each estate completely separate, the Public Trustee has power to pay all the moneys of the estates in his hands into one fund and to invest that fund at such interest as he is able to obtain.

If the Public Trustee is operating under a will and is directed to keep the estate and its investments separate from other estates then of course the assets of that estate would not go into the common fund; but with regard to all other estates—and the great majority of the estates—if estate A has £100, estate B £250, and estate C £1,000, these amounts can be put into one fund and invested. That means that estates with small sums, or sums coming in from time to time, receive a better interest return than they otherwise would. Periodically—every quarter—each estate is credited with the interest which its proportion of the common fund is deemed to earn. The common fund is guaranteed by the State, so there can be no loss through capital being put into the fund.

Subsection 4 of Section 40 of the parent Act provides that the income belonging to the respective trusts or estates, the moneys of which form the common fund, shall be credited to the respective trusts or estates quarterly, as prescribed, on the first day of January, April, July and October of each year. It was found in practice to be impossible, without an immense amount of calculation, to ascertain in respect of each estate, quarter by quarter, what the common fund had earned, because the common fund is changing all the time, or from time to time, in the nature of the investments and in the yield on those investments, and is also changing all the time in the amount

which each estate may have in the common fund.

If an estate has to be wound up today then, today not being a quarter day, but between the quarter days, it would be impossible with regard to each estate—without an immense amount of work and quite an army of clerks—to work out exactly what the common fund would have earned by way of interest during the period when this estate's money formed part of the common fund. In practice, it has been found necessary to estimate what the common fund has been earning. The idea has been to estimate what the common fund has been earning and then to credit the estates with that amount of interest from time to time quarterly as prescribed by the Act. It is estimated that at the present time the common fund is earning 3½ per cent., and every quarter each estate is credited with 3½ per cent. on the amount of money it has in the common fund, and out of each estate is taken that 5 per cent., being the trustee's charge on the income so credited. That means a vast amount of work, because each estate has to be debited with the commission payment every quarter.

It is now proposed by the Bill that the interest earned by the common fund shall be fixed from time to time by the Public Trustee, with the approval of the Minister. Or shall I put it this way, in rather more precise language, it is now proposed by the Bill that the interest payable to the respective estates, the moneys of which are held in the common fund, shall be at a rate from time to time fixed by the Public Trustee with the approval of the Minister, and published in the "Government Gazette." And interest at that rate will then be credited each quarter to the estates which have money in the common fund, instead of being credited as is now provided in the principal Act. The change that will be made is this:

The Public Trustee is entitled to 5 per cent. as his remuneration on the income collected. When he comes to fixing the income to be paid to the estates participating in the common fund, he will fix a rate of interest which will, as near as possible, be the gross interest earned by the common fund, less his 5 per cent. commission. That means he will not have to go to every estate every quarter and debit his commission which, in many cases, is a very small amount. As a result, the Public Trustee, looking at all the investments on, say, the 1st January will be able to say, "These are earning 3 1/8th per cent. after taking out the 5 per cent. my office is entitled to for the collection of income. Therefore I declare that the interest to be credited to the estates participating in the common fund will be 3 1/8th per cent." In nine months' time, in view of alterations in the investments, he may decide that the common fund has then earned 3¼ per cent. He would then, with the approval of the Minister, gazette that rate and the estates would then be credited with that amount of interest.

There is this difficulty that, neither at the present time nor under the Bill can we be certain we are paying to the estates the precise income which the common fund is earning, because we may pay a little too much or not quite enough at any one time, but the whole idea is to fix the interest payable as near as possible at the actual rate which the common fund is earning, less the trustee's commission. This sounds very involved, and I am afraid it is, and I can only hope that I have not made it even more so. In the Committee stage I will be glad to explain it, if I can, further.

Mr. May: What period is expected by the words "from time to time"?

The ATTORNEY GENERAL: There is no period involved.

Mr. May: It might be a Kathleen Mavourneen period with the Public Trustee.

The ATTORNEY GENERAL: His duty is to alter the rate of interest to be paid to the participants in the common fund whenever he thinks a material change has taken place, either upwards or downwards. There are four safeguards. The first is that the Public Trustee is a trustee and, presumably, a man of probity. The second—and it may not be so great a safeguard—is that he has to get the approval of the Minister to the amount payable. The third is that he must publish it in the "Government Gazette," and everyone can know what is the rate payable on the common fund by the Public Trustee; and the fourth is that the accounts of the Public Trustee undergo a continuous audit by the Auditor General.

If, therefore, the amount being paid to participants in the common fund is appreciably less than it should be, then that would be evident in the trustee's accounts,

and the Auditor General would report that fact to Parliament as something which Parliament ought to know. In New Zealand there was originally, in the case of the Public Trust Office, a provision similar to what is in our Act. But I am advised by the Public Trustee that it was found to be unworkable and was, many years ago, changed to include a provision similar to what is contained in this Bill. I desire to acknowledge the patience of the House in listening to me on what is a highly technical matter.

Hon. A. H. Panton: Do not apologise; we have no option.

The ATTORNEY GENERAL: I do not know about that. There might have been considerably more uproar than there has been. This is a machinery Bill and is really the recommendation of the Public Trustee after five or six years' experience. The whole object of the measure is to simplify and cheapen procedure, and to overcome certain technical or office difficulties which the present Act has shown to exist.

Hon. J. T. Tonkin: Will it mean more work for the lawyers, or less?

The Chief Secretary: It will mean less for the Public Trustee.

The ATTORNEY GENERAL: As a matter of fact, the Public Trustee is in one sense not as popular as he should be because, although the right honourable member may not know this, he keeps his own lawyer on the staff.

Hon. J. T. Tonkin: Ease up a bit!

Hon. A. H. Panton: He does not like the promotion.

The ATTORNEY GENERAL: It is looking to the future. The Public Trustee has at least one legal adviser on his staff and I am afraid that as a result the minimum of legal work goes from the Public Trustee to the legal profession. The Public Trustee assures me that this Bill will make his office work easier and cheaper, and will facilitate the service he can render to the public. I move—

That the Bill be now read a second time.

On motion by Hon. E. Nulsen, debate adjourned.

BILL—FATAL ACCIDENTS.

Message.

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

Second Reading.

Debate resumed from the 2nd September.

MR. GRAHAM (East Perth) [5.24]: This Bill is one, the main principles of which have been in operation for approximately a century in Western Australia, but time has indicated, particularly in one direction, the necessity for change—that is to say, the basis upon which damages shall be assessed. It is, as was pointed out by the Attorney General, actually a re-enactment of the old Act, together with a number of amendments or additions. With them I am, generally speaking, in agreement. There are, however, a number of amendments that I consider at this stage as being desirable, and they have been listed on the notice paper for consideration. This, I would say, is a Committee Bill and one which warrants deep consideration with regard to its various aspects rather than the general principles involved which, as I have already said, have been in operation for a long time.

The Attorney General stated, and I agree with him, that this is a legal and technical measure and, because of that fact, it presents certain difficulties to the lay members of this House, particularly to me, as this is the first Bill that it has been my privilege to handle. I do want to acknowledge the assistance given by the Attorney General, especially by his somewhat lengthy and lucid explanation when he introduced the measure. From my own observations, however, it seems to me that there is a tendency for Ministers to develop an unyielding affection for their Bills. By that I mean they seem to feel there is some abrogation of their rights if members seek to effect any alteration, extension or modification of them. I do hope that on this occasion the various amendments submitted, not only by me but by others, will be given full consideration in the light of their merits rather than that there should be any desire to keep the Bill intact in its present form.

It appears to me inevitable that there should be discrepancies and anomalies likely

to follow the introduction of such a measure; that is, one which is more comprehensive than the existing statute. There are two chief points in that connection. One is that the amount of damages will of necessity be governed by the financial status of the deceased person because the dependants of a person with a large income would receive greater damages than would those of a poorer person. The second is that before the Act becomes operative it will depend upon the financial status of the wrongdoer —that is, the person through whose neglect a death has been occasioned. If such a person is without any means, then it would be a needless waste of time for anyone to take action for recovery of damages. Whilst, therefore, it is the intention of the legislation that those who have suffered financially as a consequence of the decease of a person, whose death was caused by neglect or wrongful act, should have the right to claim for damages, any subsequent action by them will be governed largely by the ability to pay. In other words, the damages to be paid to dependants and others will fluctuate in accordance with the circumstances of those to whom I might refer as the principals in the matter.

The whole subject raises the question as to whether or not it is opportune to give consideration to the introduction of some form of legislation on a comprehensive basis —something akin to third-party insurance as affecting motor vehicles. That is to say, there would be a contribution which, in the very essence of things would be a humble one, by all persons in the community, and the proceeds would go into a fund which would be a guarantee that if there were a fatal accident moneys would be available adequately to recompense the dependants of the deceased for any loss or hardship sustained as a consequence of the premature death of some individual. However, perhaps until such time—obviously it is premature at the moment—as something along these lines is investigated and attempted, we must consider the matter in the light of the Bill now before us. As it stands, there is no limit whatever. I feel there should be some restriction, some maximum amount of damages that could be claimed. As members are aware, there is such a limit with regard to workers' compensation. I realise that in this instance there would possibly have to be a greater amount provided, but the general tendency should be for a leavening of the amounts claimable. One can visualise in the case of an extremely wealthy person that the amount of damages a person might be called upon to pay would reach some fabulous figure.

Dealing now with the Bill rather more in detail, I am pleased to know that it is the intention to cover illegitimate and adopted children. I wish we could get away from that term "illegitimate children" and refer to them rather as children born out of wedlock, ex-nuptial children, or—

Mr. Read: Natural children.

Mr. GRAHAM: Of course, the children are born in quite a natural way but, as I heard a member say in this House on a previous occasion, if there is any illegitimacy about it at all, we should refer to the illegitimate parents rather than cast any reflection upon the innocent children. If I may be permitted to digress for a moment, I would like to say how extremely pleased I was during last week to learn that from a particular form that applicants for relief from the Child Welfare Department have to fill in, the most objectionable clause in which the mother is called upon to say which, if any, of her children were illegitimate, had been deleted. I hope that tendency will be followed generally in other directions.

The position at present is that if a person is injured through the negligence of someone else and survives, then full damages may be claimed by him against the person responsible for the injury. As was explained so well by the Attorney General during the course of his introductory speech, as the law stands at present, consideration has to be given to quite a number of benefits that may accrue to dependants on account of the death of a person who was negligently killed. To say the least of it, the extent to which that consideration can go should not be governed by the providence exercised by the person who had met such an unhappy fate.

The Bill proposes that no account shall be taken of certain detailed items. I submit that no sum, however payable, should be taken into account in assessing such

damages. I can visualise payments that might accrue to dependants in consequence of the death of a person, other than those items outlined in the Bill. For instance, a wealthy parent might have an agreement with his married daughter that in the event of some unfortunate occurrence depriving her of her husband, he would make available to her certain annual payments or a lump sum. There is no specific exclusion of such matters in the Bill and, accordingly, I wish a person who has been responsible for the death of an individual to shape up to his full responsibilities for the payment of damages, irrespective of what the source may be of the income or financial benefits accruing to the dependants of the deceased person. An amendment to achieve that end has accordingly been placed on the notice paper.

I maintain that persons entitled to claim damages should not be restricted to the few mentioned in the Bill. As the Attorney General said, however, he is not wedded to the inclusion of a brother and a sister in the legislation, I think that any person who suffers some financial deprivation as the result of the decease of a person should be entitled to claim damages, in respect of which application the court should be able to decide the amount of compensation to be paid on account of the loss sustained through the passing of the person whose death was due to the negligence of someone else. I appreciate that a brother, a sister or other relatives mentioned in the Bill could be materially affected by the decease of a person but, of course, there is no limit to the number of those who conceivably could be in that position. An uncle or an aunt or a person in no way related to the deceased person might be in receipt of some form of income from, or might be maintained, either wholly or in part, by the person whose death had occurred, and I think they should be entitled accordingly to submit claims to the court in respect of damages suffered.

I ask the Attorney General whether, where the Bill provides that there may be a claim for general damages and also a claim specifically for medical and funeral expenses, the latter items are to be regarded as additional to the general damages claim. To me the Bill does not appear clear on the point. As the Minister stated when placing the measure before the House, it is proposed that solatia payments may be made, and that is an innovation in this State. I believe it applies in South Australia and elsewhere. Here again, like the Attorney General himself, I hesitate to explain just what is meant by a solatium, but I can quite imagine that such payments would depend upon the capacity of the individual to pay in respect of the grief and suffering, mental torture or other feelings of that type such as would warrant the payment of monetary recompense. At the same time, I put it to members that if any person suffers grievous mental stress on account of the loss of some loved one, it is hardly likely that any monetary payment, irrespective of how great it might be, could compensate for the loss he or she had sustained.

To take the matter further, if a substantial award were made to enable a person, who had suffered extreme grief because of such a loss, to take an extended holiday that might enable him or her to erase some painful memories, it might prove of great assistance to the individual so circumstanced. The measure of a person's loss is not to be assessed in pounds, shillings and pence, but at the same time I am not opposed to the introduction of what I have already referred to as an innovation in Western Australian legislation. The Bill provides for a solatium to be payable at the discretion of the court to a husband or a wife in the event of the loss of the opposite partner. It also provides that parents shall be able to make an application to the court on account of mental stress that they have endured because of the loss of a child.

I submit that the probable effect upon the child in the event of its loss of a parent or of both parents due to an accident for which someone else was responsible—particularly would it be so if the child were to lose both its parents—would affect its life to an even greater extent than would be the effect on the life of the average parent if the loss of a child were involved. Notwithstanding that children's memories particularly those of tender years, are notoriously short, if a child were to lose both its parents, and consequently the natural love and affection to which it was normally entitled, together with the disciplinary effect and guidance exercised by its parents, that child should at least be entitled to consideration in the granting of a solatium, because there is

an injury done to it in such circumstances, altogether apart from the damages that could be awarded under different headings, such as the maintenance and care of the child, its education and upbringing. A child in such a position will have lost something quite apart from what might be regarded as damages in the ordinary sense of the word and should be entitled to claim under the headings I have mentioned.

I urge, too, that there exists no reason whatever for limiting the grounds for the granting of a solatium as proposed, by comparison with the earlier definition of "parent" in the Bill. I propose to take steps to delete the clause I refer to unless I can be satisfied by the Attorney General as to the necessity for an altered description or definition. Incidentally, apropos the same question of the solatium, I appreciate that I am not permitted to refer to the various clauses of the Bill, but I would point out to the Minister that in dealing with the payment of solatia there are references to "infants" in three instances, but nowhere else in the Bill. Later on, in the same paragraph, it reverts to the term "child" which is used on two further occasions.

Hon. F. J. S. Wise: Is that bad drafting?

Mr. GRAHAM: I do not know whether it is bad drafting or not. I think there should be some clarification of the definition of "child." We know that an infant is a person under the age of 21 years. I dare say that would be the intention of the Bill, but if a man was 50 and his father was killed at the age of 75, although the man aged 50 might well be the child of his father it would hardly be likely to be the intention of the legislation that he should be entitled to make a claim for the payment of solatia, or in the event of the younger person being killed, it could hardly be the desire to allow a claim by the father such as is specifically provided in the Bill.

Hon. F. J. S. Wise: I cannot believe it is bad drafting with four lawyers in the Cabinet.

Mr. GRAHAM: There may be some explanation, but it is not obvious to me. Another matter that is confusing is in relation to the grandson and granddaughter. Why should they be regarded as children? Why should the grandfather and the grandmother be regarded as parents? The reference to the father and mother, the stepfather and stepmother is understandable as a proper definition, but when the relationship is taken through the preceding or the succeeding generation it is almost confusing. Not knowing the ways of persons well versed in the wiles of legal technicalities, I cannot say that there is not some satisfactory explanation. With these observations, and bearing in mind the statement I previously made that this is largely a Committee Bill, I support the second reading as I look upon the measure as representing an attempt to improve the procedure in operation today.

Question put and passed.

Bill read a second time.

In Committee.

Mr. Perkins in the Chair; the Attorney General in charge of the Bill.

Clauses 1 and 2—agreed to.

Clause 3—Interpretation:

Mr. GRAHAM: I move an amendment—

That in lines four and five of Subclause (1) the words "grandson, granddaughter" be struck out.

It has been suggested that it would be just as logical for the Bill to provide for the great-grandson and a great granddaughter as for the grand-children.

The ATTORNEY GENERAL: I listened with interest to the analysis of the member for East Perth, and will refer later to certain points he raised. In the attempt to advance along the road of reform in respect of this law I have thought it best for the time being to retain the present form and to add provisions which would make the legislation more in line with modern thought.

Mr. Graham: I thought you were going to give the whole Act a Spring cleaning.

The ATTORNEY GENERAL: I may do so on another occasion. I agree that in some respects this is a disorderly piece of drafting. I hope the Committee will retain the terms "grandson and granddaughter." It is conceivable that a grandfather may be dependent for his comfort upon his grandson. If he can prove to the court that by reason of the death of the grandson he would be deprived of the assistance he had been getting from that relation, he should be entitled to compensation. There may be cases where a grand-

father may be maintaining and educating a grandson. The grandfather may be run over by a motorcar and may leave the child deprived of maintenance and educational opportunities which he would have obtained had the grandfather not been killed. I think these are two classes which we may reasonably retain. They have not been excluded in any amendments which have been made to this legislation either in the United Kingdom or in any of the Australian States. While England and Australia have extended the list of those who may benefit by this legislation, they have not taken out any people who were originally included and, in particular, have not taken out grandfathers or grandsons. I hope the Committee will be prepared to retain this provision for the grandfather and the grandson.

Mr. GRAHAM: I do not intend to argue this point at length. The Attorney General has told members that perhaps the only reason for the insertion of these two classes of people is because for over a century they have been included in relevant statutes. I quite appreciate that grandparents might be affected, but in exactly the same way an uncle or an aunt, or a woman round the corner, could conceivably be a dependant. An amendment which I propose to move later includes all persons who are maintained, either wholly or in part, by the deceased person at the time of his death. That answers the objection of the Attorney General. I consider my definition a better one than the Attorney General's.

Mr. Rodoreda: Whether relatives or not?

Mr. GRAHAM: Yes. The Attorney General has picked out the grandfather and grandmother, but has omitted other relatives who might be entitled to just as much consideration, which would be granted by the court. I was anticipating that the Attorney General would agree to my amendment. His reasons for the retention of the grandfather and grandmother and the grandson and grand-daughter in the Bill are most unconvincing.

Hon. N. KEENAN: I feel inclined to support the member for East Perth, if in fact the contention he is putting forward is one that is acceptable, namely, that the proper class to benefit under this Bill will be the people who suffer by reason of the damage that has been done; they should not benefit merely on the ground of consanguinity.

The ATTORNEY GENERAL: The grandfather or the grandmother, or grandson or grand-daughter or any relative mentioned in this Bill, cannot recover any money apart from this solatium clause—unless they have been receiving financial assistance from the deceased or can prove that they had a reasonable expectation of receiving it had he continued to live. I am not opposed to any reasonable amendment, but I feel a certain responsibilty in having gone even as far as I have. The amendment proposed by the member for East Perth touches a central aspect of this Bill and I may be pardoned for saying a word or two about it. This is an extraordinary remedy which is given to relatives, or was given to relatives, who had suffered financially by the death of a relative. Being an extraordinary remedy, it was confined to relatives. A man's employer could not come along and say, "Bill Smith was my employee and was killed by this man's negligence and I have suffered damage. I cannot get nearly as good a painter as he was; in fact, I cannot get a man at all. He was a key man in my business and I am suffering and therefore want to come in."

Mr. Fox: What court would give him any damages?

The ATTORNEY GENERAL: I am replying to the suggestion that any person, even though not a relative, who may show that he has been damaged by the death of a deceased person, may come in and claim damages from the wrongdoer. There may be people who might have all sorts of claims —and legitimate claims, in one sense—for pecuniary loss sustained by them by the death of a deceased man; but when the law gave a remedy many years ago—a remedy not possessed before—the court gave it to relatives because they were the persons most deeply concerned from every point of view.

If a man is knocked down by a motorcar in Hay-street and loses his leg, he can claim damages against the negligent man who caused him the injury; but his relatives cannot come along and say, "James Smith is my brother and because he is now unable to do work in the same way as he did before, I have been damaged by this man's negligence." They have no claim, nor would

the employer of the deceased person. The employer could not say, "James Smith was a key man in my business and he now cannot work for me as he did. I have suffered damage." The man injured is the only man who can claim damages, if he remains alive, for the injury he has received, or at least, so far as my experience goes, he is the only man who succeeded in those circumstances. The majority of cases which are covered now and will be covered in the future arise from motor accidents. Those accidents are covered in this State and in most places by third party insurance.

So the financial position of the wrongdoer—the defendant—is not very material, because the insurance fund will make good any liability he ought to pay. While this is not an entirely relevant consideration, there are perhaps limits to the extent to which we can invite people to claim damages under all sorts of heads because of somebody's death. They may—directly or indirectly or in large or small degree—have sustained a certain amount of damage. The law made an exception many years ago for relatives who had sustained or were likely to sustain pecuniary loss by the death of their relation and the law in the United Kingdom and in the Australian States has never stepped beyond that orginal class—that is, relatives of a deceased—except to the extent of stepfathers and stepmothers and adopted children.

I ask the Committee, therefore, to let the existing law stand. I do not preclude the desirability of considering the matter at some future date; but if we are going to alter the law widely to include people outside of relatives, I think the matter needs a great deal more examination in order to see what the implications are. I suggest that we accept the present law, which has been a very great, active reform and add to it such additional measures of reform as we think fit; but leave the Act as it has been—one to protect the relatives of a deceased man without going outside that particular class.

Mr. FOX: I feel inclined to the view expressed by the member for East Perth. Any person who has suffered a monetary loss through someone being killed in an accident should be entitled to claim compensation. Take the case of a person who is maintaining a child who may not be related to him at all and whom he has not taken the precaution to adopt legally. In the event of that person being killed in an accident the child, though totally dependent on him, would have no claim at all. I had a somewhat similar case in connection with workers' compensation at one time. A woman adopted a boy when he was three years of age and when he was 53 he died as a result of injuries received in an industrial accident. During his lifetime he had undertaken the care of a child two or three years of age who, at the time of his death, was 15. But neither the woman who had adopted him nor the child whom he had adopted was able to obtain any compensation. Cases of that kind may not occur very often, but if we are going to change the law we may as well make provision for people who suffer a monetary loss through the death of their breadwinner, though there may be no ties of blood between the parties concerned. I support the amendment.

Hon. N. KEENAN: The illustration given by the Attorney General of an employer being put in a position to claim damages is not in the least important. Nobody suggested such a thing. What the member for East Perth proposes is that the line of demarcation should be confined to those who can prove that the deceased person either wholly or partly contributed to their maintenance and that words like "granddaughter" and "grandson" which suggest that consanguinity is of importance should be excluded. I am inclined to agree with the member for East Perth. I cannot see why in a Bill of this character, if the existing law is imperfect, we should not take the opportunity to make it perfect. For that reason, and because I do not think the argument of the hon. member has been answered by referring to what an employer would suffer, I intend to support the amendment.

Mr. STYANTS: I support the clause as it stands. It appears to me that the objective of the amendment is to restrict the number of people who would be entitled to compensation. It is admitted that an uncle or an aunt may take care of a child without legally adopting it. Possibly many cases such as that outlined by the member for South Fremantle would occur. It has also to be remembered that there will be

a greater number of cases in which grandparents will undertake the rearing of grandchildren. It frequently occurs that a son or daughter—perhaps both—dies and the grandparents take charge of the offspring.

Hon. N. Keenan: That would be covered by the amendment.

Mr. STYANTS: No; I take it that the amendment will exclude grandchildren and grandparents. If the amendment had for its objective the inclusion of an aunt or an uncle or someone who had adopted a child of whom he or she was not a relative by blood I would be prepared to support it. But I do not propose to support any measure that would debar a grandfather from obtaining damages because of the death of his grandson. It may be the opposite way round, as was explained by the Attorney General. It would be entirely wrong to exclude people like that, because there are likely to be quite a number of occasions when they would be entitled to compensation.

Sitting suspended from 6.15 to 7.30 p.m.

Mr. MARSHALL: I would like the Attorney General to be explicit as to the measure, because the proposed amendment has a material effect upon those who might be beneficiaries; or, if the member for Nedlands is right, it might not. I interpret the measure as providing that should a person be fatally injured then, as he cannot sue for damages, certain individuals, and they are specifically mentioned, shall have the right to do so and the court shall have jurisdiction to assess them. In other words, I accept it as being a form of compensation. In consequence, those who will be permitted to sue for damages will be those who were either wholly or partly dependent upon the person fatally injured. That being so, the clause and the amendment provide that a grandson or a grandparent suffering as the result of a fatal accident shall have the right to sue if the person fatally injured had contributed towards their maintenance.

I accept the view of the member for Kalgoorlie. If a grandparent assumed the responsibility of caring for a grandchild and ultimately became dependent upon the grandchild, and the grandchild was fatally injured, the grandparent would not, if the amendment were carried, be entitled to sue for damages. If that be the position, I do not propose to vote for the amendment. I would rather this Bill took a more comprehensive view of the situation and gave the right to sue for damages to anyone who could prove, as is the case to a material extent under the compensation laws of this country, that he was to a degree, if not wholly, dependent upon the person fatally injured. I think the number of cases that will be taken to court under this particular measure, if it becomes law, will be remarkably few. It could have been more comprehensive in consequence. I want the Attorney General to assure me that my convictions are right, otherwise I propose to support the amendment.

The ATTORNEY GENERAL: The views expressed by the member for Murchison are substantially correct. The present amendment, if passed, would limit the class of people who could benefit by this legislation. I understand that the real object of the member for East Perth is to add to the class of people who could benefit by this measure and that he has in contemplation a later amendment with that object in view. I suggest, therefore, it would be in accordance with his desires and those of the Committee in general, if the present amendment were not carried. We could then proceed later to consider the proposition that the class of persons should be not less, as is now proposed, but greater.

Mr. GRAHAM: Substantially, I agree with the Attorney General. I stated at the outset that the deletion of the words would not materially affect the measure. All I wanted was a clearer definition. I could not see that a child was a grandson or granddaughter. As the Attorney General has intimated, this is of no particular concern to me because the issue of seeking to broaden the scope of the Bill is contained in my amendment to Clause 5. I have no desire to press this amendment.

Amendment put and negatived.

Clause put and passed.

Clause 4—Liability for death caused wrongfully:

Mr. MARSHALL: I refer the Committee to Subclause (2). Several laws provide, in certain circumstances in the case of fatal injury, for both medical and funeral ex-

penses to be allowed. Under this measure there will be quite a number of cases where funeral and medical expenses will not be provided. Let us assume that the medical and funeral expenses are still outstanding and are still a liability of those who may benefit. The expenses might amount to a large sum in the aggregate, and because such persons had not been able to pay out that money they would not succeed in an application under this measure. If my view on this matter is correct I think an amendment should be moved to remedy the position. There are a great many people on the basic wage or a small margin above it, particularly family men, who could not meet such a liability for medical and funeral expenses until the action for compensation had succeeded. Even under the workers' compensation legislation, it is known that persons have suffered for long periods before finally succumbing to their injuries, and in such cases the medical expenses may be colossal. I think the Attorney General may be able to frame an amendment to protect beneficiaries in this regard.

The ATTORNEY GENERAL: If the claimants in an action under this legislation, being relatives, have paid the funeral expenses or become liable to pay them, they can recover the amount involved by an action against the wrongdoer. If such relatives have paid or have agreed to pay the expenses they can recover the amount involved. If the relatives who are suing have paid or have agreed to pay medical expenses of the deceased man they can recover such expenses from the defendant. If, however, the relatives who are suing have not paid or agreed to pay the funeral or medical expenses they cannot recover them. Under the 1941 legislation there is, I think, a remedy by the estate of the deceased man for funeral expenses.

Mr. Marshall: That would mean double action, under this law and under the other.

The ATTORNEY GENERAL: Yes.

Mr. Marshall: That would make a feast for the lawyers.

The ATTORNEY GENERAL: That may or may not be so. One set of plaintiffs are relatives suing on a particular basis, and in the other case it is the estate of the deceased person suing on a different basis. If the member for Murchison allows this to pass I will examine the position and wi consult him as to re-committing the measu if he so desires.

Mr. STYANTS: I think that a later por tion of Clause 4 is contradictory. I refe to Subclause (2). It is well known tha most friendly societies provide for funera expenses, as do also some industrial organisa tions. Subclause (3) would have the effec that, no matter what insurance or othe provision had been made, it could not b taken into consideration. Under Subclaus (2) a person might have an insurance polic providing for funeral expenses, but suc expenses would not constitute a claim an could be deducted from the amount of th policy. If the person concerned had suc a policy or was a member of a friendl society which provided for funeral expenses a claim could not be made against the wrong doer, and I think that is against the spiri of the remainder of the clause.

The ATTORNEY GENERAL: I think the position would be that if the deceased man had taken out a policy or had entered into an arrangement with some lodge or friendly society, by which such a body would pay his funeral expenses, the money would be payable direct from such a body to the undertaker. As I see it now, I do not think that consideration need enter into the examination of this clause. We are here concerned to recoup dependants who have paid or become liable to pay funeral expenses.

Mr. RODOREDA: Would the Attorney General elaborate on what he has said? Paragraph (b) of Subclause (3) would, I take it, include a death benefit society, and if the medical and funeral expenses were borne by such a society they would not be taken into account in assessing damages. That seems to be at variance with what the Attorney General has already told the Committee. As to the amendment suggested by the member for Murchison, I can scarcely see anyone but relatives incurring funeral or medical expenses. I consider that the payment would have no bearing on the question of such expenses being incurred.

The ATTORNEY GENERAL: Relatives sometimes incur funeral expenses. They can pay them or agree to pay them and, in such cases, they could recover from the defendant under this measure. Normally

a deceased person would leave some estate and the procedure would be for the executor to pay the funeral expenses from the estate. In that case there would be no debt or liability incurred by the relatives taking a special action under this legislation.

Mr. Rodoreda: The relatives would have got that money if the executor had not paid it.

The ATTORNEY GENERAL: This matter might be viewed from various aspects. If we try to frame the Bill in great detail as to whether the funeral expenses are paid by the relatives or the executor and, if paid by the executor, what proportion should fall on the relatives suing under this legislation, we shall be entering upon an accountancy problem too complicated to be set out in the measure. This provision is taken from the South Australian legislation and might well be passed. If the claimant relatives have incurred liability for funeral or medical expenses, they can be reimbursed as part of their compensation under the action. If the expenses have been paid by the executor, that is another matter. The provision protects relatives who are suing and who might have paid funeral or medical expenses.

Hon. N. Keenan: Why not say "paid" instead of "incurred"?

The ATTORNEY GENERAL: Until the relatives recovered the damages, they might not be in a position to pay the expenses though they might have incurred them. The clause represents further protection for the relatives, and we should not follow in too much particularity what might happen if the expenses are paid from the estate of the deceased.

Mr. MARSHALL: The principle involved is objectionable. During the depression the thrifty individual was penalised to the extent of being denied employment and had to exist on his assets until he became destitute. We should not adhere to that principle. The Attorney General says that if the deceased person leaves an estate—it might be only a small one—and the funeral expenses are paid, that should be sufficient because the estate could meet the liability. Thus the thrifty person who accumulates a small estate will receive no benefit, while the beneficiaries of a deceased person who had spent all his earnings would gain. It is time we gave consideration to the thrifty, and helped those who help themselves.

The ATTORNEY GENERAL: The eloquence of the member for Murchison made me feel for the moment that I was right in the atmosphere of the House of Lords. By all means let us help those who help themselves; let us assist the thrifty. In 1941 I introduced a measure, which became law, entitled the Law Reform (Miscellaneous Provisions) Bill of which Section 4 (2) provided that the estate of the deceased person in the circumstances mentioned by the member for Murchison might recover from a wrongdoer the amount paid for funeral expenses. Thus the contingency is provided for.

Mr. STYANTS: There still appears to be an inconsistency in the matter of dealing with medical and funeral expenses and the damages against a guilty party. If the expenses are covered by insurance, such as membership of an industrial union or friendly society, the wrongdoer is not called upon to make them good. The supposition of the Attorney General that the spouse does not handle the money received from a friendly society is not correct. It is not paid to the funeral directors but to the spouse of the deceased person. The guilty person would not have to find the amount at all. It appears to me that the two portions of the clause are inconsistent.

The ATTORNEY GENERAL: I think they are consistent. Suppose there is a funeral insurance, then that money comes into somebody's hands and the funeral expenses are paid. They are paid by, say, the X friendly society and neither the estate of the deceased nor the dependants incur that expense. If there is no insurance fund to cover the funeral expenses and they are paid by the relatives then the amount can be recovered by the relatives from the wrongdoer, the defendant.

Mr. Styants: That is not so with the amount assessable. Those receipts are not to be taken into consideration.

The ATTORNEY GENERAL: If an action is brought by the dependants and the court thinks that the amount of damage the dependants have incurred is £1,000, and if the court knows that £50 is payable by way of funeral expenses, then provision is made that the dependants shall recover that £1,000 and that the damages paid by the defendant,

the wrongdoer, shall not be reduced by the amount of the policy which is payable for funeral expenses. It really means this: If the funeral expenses are paid by some outside organisation that expense does not fall either upon the estate or upon the dependants.

Mr. Styants: It seems to me that the two portions of the clause are inconsistent.

The ATTORNEY GENERAL: The only way to overcome that point would be by giving the friendly society a further right of action to recover the amount paid for funeral expenses. That would carry the measure still further and make it still more complicated.

Mr. GRAHAM: Subclause (2) provides that damages may be awarded for medical expenses. I emphasise the word "damages," because I am proposing to amend Subclause (3). When introducing this measure, the Attorney General suggested that because a man, now deceased, had been prudent that was no reason why the wrongdoer should secure some financial advantage; that is to say, he would not be called upon to pay so great a sum for damages. The Bill specifically refers to a policy of insurance, superannuation payment, pension and so on. Possibly there are many other forms of payment which might accrue to the widow of a deceased man, and these might indirectly be a benefit to the wrongdoer, as he would not have to pay those amounts by way of damages. I am proposing to strike out paragraphs (a) and (b) of Subclause 3 with a view to inserting the words "any sum whatsoever paid or payable by reason of the death of the said deceased." That is the way in which the amendment appears on the notice paper, but I wish to substitute the words "deceased person" for "said deceased," as I think this would make the meaning plainer. I therefore move an amendment—

> That paragraphs (a) and (b) of Subclause (3) be struck out with a view to inserting other words.

The ATTORNEY GENERAL: I think there is something of substance in the arguments of the member for East Perth. When this legislation was passed, it did not lay down the basis on which damages for compensation were to be computed; it was left to the courts of law to set out the principles on which damages should be paid. The principle ultimately adopted and accepted was that the dependants should receive compensation equivalent to what they lost through the death of the deceased man. In other words they should receive by way of compensation a sum as nearly as possible equal to what they would have received if he had continued alive.

If a father were killed and left three children, their expectation, if he had continued alive, might have been—for the sake of argument—£100 a year each until they were 16 or 17 and able to earn for themselves; and if the father left no estate that would be the measure of their damages. But suppose the father left £20,000 and each of those children became entitled to £200 or £300 a year and therefore had more money because their father died than they would reasonably have expected to get if he had continued alive! The court has said, "In those circumstances we do not propose to award damages because the estate received from the deceased man is as much as or more than would have been your normal expectations of benefit by the amount he allowed you." I would quote from a standard text book entitled "Salmond on Torts" (10th edition) at page 357—

> Any pecuniary benefit or reasonable expectation of pecuniary benefit to the relatives from the death of a deceased must be taken into account in the reduction of damages which damages are given to compensate the recipient on a balance of gains and losses for the injury sustained by the death.

That, the member for East Perth says, is somewhat illogical in this sense: That the wrongdoer who may kill a wealthy man may have little or no damages to pay but if he kills a poor man he may have to pay damages of a considerable amount. Now the law went this far in aid of the prudent man—the prudent man in one respect. It said—in England and in other Australian States—that although the ordinary estate which a deceased person has left will be taken into account in determining what damage his relatives have sustained by his death—that is to say, how much they receive from the deceased man's estate will be taken into account as a balance against what they have lost—that will not be applied in the case of insurance policies. Thus, if a man insures his life, although the amount may be large or small—but mainly it is not large—then if he is killed and his relatives

suffer a loss of £1,000 by his death and if his life was insured for £500 which his relatives will get, the wrongdoer will pay the £1,000 and will not be allowed the benefit of the life insurance policy.

In one sense I agree with the hon. member that the basis is not entirely logical, but the idea of this amendment regarding insurance polices is that the insurance policy is regarded as the security of the poorer man. It is not so important to the rich man but it is vitally important to the poorer man; and in other laws, like our Life Insurance Companies Act, it is provided that the proceeds of the insurance policy are not liable for the debts of the deceased. Creditors cannot come in and put their hands on the man's insurance policy and take it away from his wife and children. It is not like ordinary estate or money. So if we pass this amendment, it will mean that although the dependants of a deceased man may be better off by his death by succeeding to a large estate, the wrongdoer will still be compelled to pay; so that they will not only be better off on balance but will also receive damages from the wrongdoer for an injury which in fact they had not received.

What we have done in this Bill is this: We allow the court still to take into account what relatives obtain from the ordinary estate of a deceased man. But we do say, taking a broad, general rule, that the court shall not take into account or shall not use to reduce damages what the relatives may get under an insurance policy. By this amendment we go rather further and say also that the amount payable to the relatives as the amount of their pecuniary loss shall not be reduced by superannuation payments or provident fund payments or friendly society payments or pensions payable by law. We treat those things like insurance policy moneys as normally the protection of the man who has no great amount of estate to leave. If we pass the amendment, even if a man leaves £100,000 to his relatives and they are immeasurably better off by his death, they will still be able to claim for a loss which in fact they have not really sustained. While I admit that this particular measure is not as logical in principle as it might be, I think that on balance the Bill might best be left as it is and the exclusion from the computation of damages be restricted to insurance policy moneys and superannuation, provident fund, and friendly society payments and so on.

Mr. MARSHALL: I do not think it can be accepted that the member for East Perth is hostile to the clause under discussion because he has moved an amendment.

The Attorney General: No, I did not suggest that.

Mr. MARSHALL: What he is desirous of doing is to make the clause more comprehensive. The principle, therefore, is subscribed to by the Attorney General in his own Bill but it is very limited indeed there. It is specifically limited to the items set out in paragraphs (a) and (b) of Subclause (3). Surely neither the Attorney General nor any member supporting the Government will subscribe to the theory that a wrongdoer should be permitted to escape fully his liabilities because there are some people who are fortunate in being able to rely upon getting some financial aid or concession because of a fatal accident! If the principle in paragraphs (a) and (b) is considered good by the Attorney General, surely the amendment is still more virtuous. Why should we allow a wrongdoer to escape his liabilities because of certain arrangements that may have been made between people to be put into effect in the event of a death occurring?

I have a case in point. A man who rendered valuable services to a goldmining company died and left a widow and children. One of the boys now maintains his mother and keeps the home. The goldmining company makes a financial concession to the widow. If anything happened to the son, who maintains the widow, and she sued under this clause, the Court would, unless the amendment were a part of the measure, take into consideration, in assessing the damages, the amount this generous mining company gives. A wrongdoer should not escape his just liabilities because the person who dies happens to be the son of this widow instead of someone else who has a contract of insurance with an insurance company. We know from experience that in the case of many accidents —95 per cent. of them—the wrongdoer is a man of straw and that one would be throwing good money after bad to get damages. As I pointed out earlier, the number of cases that will be taken under this measure, if it becomes law, will be very

few. The Attorney General might open his heart a little and put this on a basis of consistency and equity. Why should the wrongdoer escape in one case and be made to pay in full in the other? I am inclined to support the amendment.

The ATTORNEY GENERAL: In the case mentioned by the member for Murchison; the money given by the company would not be taken into consideration. It would not be a sum of money payable by reason of the death of the son, and so the widow would suffer no loss by reason of the receipt of that money.

Mr. GRAHAM: I am rather surprised at the attitude of the Attorney General. He has departed from his usual logical approach. He states that this legislation is intended to provide that dependants shall derive no benefit greater than they would have received had the deceased person remained alive. It will be noticed, however, that in paragraph (a) of Subclause (3) the words "any sum paid or payable on the death of the deceased under any contract of insurance," appear. A person can die, due to the negligence of some other person, and if he has an insurance policy of £10,000 or £20,000 on his life the Attorney General suggests there is nothing very wrong with that, as long as it comes from the sacred halls of an insurance company. But if moneys arising out of the death of the person concerned, accrue to the dependants from sources other than those specifically mentioned in the Bill, then there is something wrong.

The Chief Justice said, "The matter appeared to be brought into the calculations more for the benefit of the man responsible for the death." The father of some person's wife might say, "Well, Mary, in the event of something happening to John, I am going to make a present of £5,000 to assist you," and that amount would not be specifically excluded; and yet it would be a concession or benefit to the wrongdoer. In all equity, anything that accrues or is likely to accrue to dependants should not be taken into account because it can result only in effecting some benefit to the wrongdoer. How can we exclude moneys from a certain source or sources and not exclude them from others? I hope the Attorney General will not be adamant on this point.

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

Ayes	21
Noes	22
Majority against	1

AYES.

Mr. Collier	Mr. Read
Mr. Fox	Mr. Reynolds
Mr. Graham	Mr. Shearn
Mr. Hawke	Mr. Sleeman
Mr. Hoar	Mr. Smith
Mr. Kelly	Mr. Styants
Mr. Leahy	Mr. Tonkin
Mr. Marshall	Mr. Triat
Mr. May	Mr. Wise
Mr. Nulsen	Mr. Rodoreda
Mr. Panton	(*Teller.*)

NOES.

Mr. Abbott	Mr. McDonald
Mr. Ackland	Mr. McLarty
Mr. Bovell	Mr. Murray
Mrs. Cardell-Oliver	Mr. Nalder
Mr. Cornell	Mr. Nimmo
Mr. Doney	Mr. North
Mr. Grayden	Mr. Seward
Mr. Hill	Mr. Thorn
Mr. Keenan	Mr. Watts
Mr. Leslie	Mr. Yates
Mr. Mann	Mr. Brand
	(*Teller.*)

PAIRS.

AYES.	NOES.
Mr. Coverley	Mr. Hall
Mr. Johnson	Mr. Wild

Amendment thus negatived.

Mr. MARSHALL: I move an amendment—

That a new paragraph be added as follows:—"(c) Any sum paid or payable under the Workers' Compensation Act, 1912-1941."

The Attorney General is well aware that the Workers' Compensation Act takes notice only of the relationship between employee and employer. It is set down in the provisions of that Act that no prospective beneficiary can sue under its provisions while suing for further compensation or damages under any other Act. As I see it, the wrongdoer would, under this measure, get the benefit of any payments made under the Workers' Compensation Act, unless it is set out clearly in this Bill that the judge must not take cognisance of such payments when considering a claim under this measure. I do not think there could be any objection to setting apart any sums paid under the Workers' Compensation Act. I do not think that Act provides for a direct contract of insurance between the employer and the employee. It does not recognise a contract of insurance as such, but makes it obligatory on the employer to

pay compensation commensurate with the injuries inflicted on the employee during the course of or arising out of his employment. In considering the Bill before us, I think we should state specifically that payments made under the Workers' Compensation Act shall not be taken into account when a judge is giving consideration to a claim for damages under the measure with which we are dealing.

The ATTORNEY GENERAL: Payments made under the provisions of the Workers' Compensation Act are on a basis entirely different from that of an action for damages under this measure. Such payments are payable irrespective of negligence, whereas damages under this measure are only recoverable when negligence is proved. The worker's dependants may sue under this measure or under the Workers' Compensation Act. They may take whichever course is of most benefit to them, but they cannot take both. They cannot recover £1,000 under the measure now before us and then recover £750 under the Workers' Compensation Act. I do not think it would be contended that it should be possible to sue under both measures. The whole intention of the Workers' Compensation Act is that the worker may sue for negligence, if it can be proved, but he cannot have the statutory compensation under the Act on top of full damages for negligence under the general law, because by so doing there would be a duplication of the compensation received.

Mr. MARSHALL: While subscribing to the views of the Minister, let us assume that an employee is directed to move from one place to another and is injured by somebody other than his employer. The wrongdoer in that event would escape full liability under this measure, and the widow would receive only the amount of workers' compensation and would be debarred from taking action against the wrongdoer. I am desirous of covering such cases and should like to hear the Minister on that point.

The ATTORNEY GENERAL: I appreciate the hon. member's point of view. If a man in the circumstances mentioned were killed, his widow would have an action against the negligent person and would receive the same damages as she would have got had the man not been in that employment. She would not suffer by reason of the fact that, at the time he was killed, the husband happened to be in somebody's employment. However, if the widow recovered £1,000 from the wrongdoer, she could not recover £750 under the Workers' Compensation Act as well. I will give the matter further consideration, but I believe the interests of such a man are well covered.

Mr. Hoar: Suppose the damages awarded were less than £750.

The ATTORNEY GENERAL: Then the widow could sue for the additional amount under the Workers' Compensation Act.

Mr. MARSHALL: I feel sceptical of asurances given by legal men. Over the years we have been confidently advised that certain of our views were wrong, only to find, when litigation occurred, a decision given by the judges that the advice of legal members had been altogether astray. I shall be satisfied if the Minister will consider the point I have raised and if necessary have the Bill amended, perhaps in another place.

Amendment put and negatived.

Clause put and passed.

Progress reported.

BILL—STATE HOUSING ACT AMENDMENT.

Message.

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

BILL—CROWN SUITS.

Message.

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

BILL—ROAD DISTRICTS ACT AMENDMENT.

Second Reading.

THE MINISTER FOR LOCAL GOVERNMENT (Hon. A. F. Watts—Katanning) [8.49] in moving the second reading said: I feel pleasure in introducing an amendment to this Act in order to make certain provisions that are of considerable importance and also a number of minor amendments to the existing law. The first amendment of importance is one to apply to road board elections similar rules and conditions to those which at present govern and for some

time past have governed elections for Parliament. There have been in recent months, and I daresay before that, a number of complaints made regarding local authorities, notably of the Irwin-Moore and Murray districts, concerning the conduct of road board elections. Whether or not those complaints have been entirely justified, it seems obvious to me—and I think it will be agreeable to the House—that the law relating to road board elections should be in some degree altered and tightened up.

One aspect which has given dissatisfaction has been that there has been no requirement in the Road Districts Act that a ballot paper should be initialled by the returning or presiding officer at the time when it is issued, which, as every member will know, is the position in regard to Parliamentary elections. There has been a system authorised by the existing Road Districts Act whereby the returning officer only could place an endorsement on the back of the ballot paper and that has frequently been done with a rubber stamp. A large number of ballot papers, irrespective of the number of voters who subsequently turned up, have been marked with that rubber stamp, and in consequence it was possible—and indeed probable—that a substantial number of ballot papers would be left over with that mark upon them. Therefore, one aspect of vital importance in an election could very well be carelessly or indeed improperly handled. In consequence, it is proposed in this measure, as I said, that the rule governing Parliamentary ballot papers—and I put it in that way because members are acquainted with the system which governs Parliamentary elections—shall apply to road board elections also.

The Bill also contains provision for the appointment of scrutineers, for the taking of declarations of secrecy by scrutineers, returning officers and presiding officers, and one or two other matters which measure up to the requirements of the Electoral Act in order to prevent, if possible, any further questions being raised as to the possibilities of improper conduct of road board elections as have been raised, with some justification, in recent months, and which probably could have been raised in other quarters had the persons concerned taken the opportunity of doing so. There can certainly be no harm in tightening up the law in this regard and I would suggest it is quite likely that very substantial benefit will accrue.

Another proposal in the Bill is to enable local authorities to contribute annually to a fund so as to accumulate sufficient money for replacement of plant. Hitherto it has been the usual practice of road boards to purchase plant out of loan money. That practice at present is productive of a great many applications for very large sums of money to acquire road plant, which is very expensive. A number of local authorities in past years have sought to build up these reserve funds out of revenue, but they have not been authorised by the Road Districts Act and have been called in question by audit inspectors and therefore the road boards have sometimes abandoned the practice. The system that I know of that was undertaken by one board was to include in all the work done by the particular item of plant a sum of money as part of the estimated cost of the work representing the depreciation and approach to obsolescence of the plant in question, so that at the end of the useful term of life of the plant sufficient money would be in the reserve fund to replace it, assuming its cost had not very greatly increased. Anyway, it is now considered by the local government officers that a practice such as that is very sound and this Bill proposes to authorise it in the case of any road board desiring to adopt it, subject to a provision that the approval of the Minister shall be obtained as to the investment of the money set aside in the meantime.

Another interesting proposal in the measure is that land on which no rates have been paid for at least seven years may be re-vested in His Majesty on application by the local authority. This has been the subject of requests by local authorities and I am advised that all the groups of associations of local authorities have agreed to the proposal. The proposed amendment will not affect in the slightest degree the existing provision in the Road Districts Act allowing local authorities to sell land on which rates are five years in arrears. It will, however, add a power to apply for re-vesting of the land in His Majesty where rates upon it are unpaid for a period of seven years, provided the land is alienated from the Crown in fee simple, is ratable property situated wholly or partly in the townsite, is vacant, whether enclosed with a fence or not, and in respect of which no rates have been paid for a period of at least seven years expiring on or after the 30th day of June, 1948. It is proposed that upon application to the

department and investigation of the position the Minister may approve of the re-vesting of the land in His Majesty, and thereupon the Registrar of Titles shall take notice of the request and decision accordingly and enter the transaction in the register.

There is also provision in the Bill for a road board to be able to erect houses for sale or lease on land vested in or acquired by it. This, of course, is a similar provision to that which was inserted last year, or the year before, in the Municipal Corporations Act.

Hon. F. J. S. Wise: Last year.

The MINISTER FOR LOCAL GOVERNMENT: The proposed addition should also have the words attached to it—

> Provided that after any loan raised under this part is fully repaid the rents and profits derived by the board from the leasing of such houses and the net proceeds derived by the board from the sale of such houses shall form part of the ordinary revenue of the board.

It is my intention to move that those words be added in Committee as, since the Bill was prepared, it was suggested to me—and I think the point is well taken—that the local authorities, having raised a loan and repaid it out of rents, would not without some special provision be authorised to pay the income subsequent to the repayment of a loan into ordinary revenue. I therefore think that provision had better be made in that regard.

The last portion of the measure which is of any substance is complementary to the provision in the State Housing Act Amendment Bill enabling local authorities to make agreements with the Housing Commisssion for the construction of roads where the Housing Commission is erecting dwellings. The State Housing Bill, which is already before the House, gives the Commission power to make and carry out these arrangements, and this one also gives local authorities coming under the Road Districts Act power to enter into those arrangements with the Housing Commission. Of course, it can only be done, as is clearly set forth in the measure, by agreement between the local authority and the Housing Commission. There is no form of compulsion whatever upon the local authorities to handle the matter in this way, but difficulties have arisen where local authorities have not been able to finance the necessary roads required by the Housing Commission in areas where houses are to be built in substantial numbers and the Housing Commission apparently had no authority to advance the money.

Hon. F. J. S. Wise: And the effort to secure approval by means of a poll might not succeed.

The MINISTER FOR LOCAL GOVERNMENT: Precisely. These provisions are inserted in the Act to enable an agreement to be reached.

Hon. F. J. S. Wise: I assume you will amend the Municipal Corporations Act similarly.

The MINISTER FOR LOCAL GOVERNMENT: The Leader of the Opposition is accurate in his interjection, and the Municipal Corporations Act will be amended by the inclusion of similar provisions. It is clear to me, and it should be to the House by this time, that the Housing Commission desires the inclusion of these proposals in the Act. I know of local authorities that are particularly anxious to make such an arrangement and, as I have said, it could not be done in conflict with the desire of any local authority because it is not a compulsory arrangement but one that can be entered into at any time desired when the Housing Commission is prepared to participate in such an agreement. In my opinion, nothing but good can come of an arrangement such as that because we all must recognise that the expenditure required in connection with any reasonably-sized housing programme in any district where the Housing Commission may undertake the work, must be considerable.

It should be borne in mind that until houses are erected and occupied, the ratable capacity of a board in respect of them is non-existent. A road board cannot rate the properties until the houses are occupied and certainly cannot collect rates until that is the position. Then again, as I see it, it is not very practicable for people to occupy houses where no road system exists. In fact, I cannot see that any such housing programme could be embarked upon unless some preliminary steps with regard to road-making had been proposed. In the circumstances, the Bill provides that rates that would have been paid by the Housing Commission in respect of these homes will, instead of being paid to the road board, until the advance is authorised, be treated as in reduction of the advances that the Housing

Commission has made and after that will be dealt with by the road board in the ordinary way as revenue that it would have expected in the usual course.

Mr. Marshall: What virtue is there in the land reverting in fee simple to the Crown?

The MINISTER FOR LOCAL GOVERNMENT: If the rates were not paid in respect of the land for seven years it could revert to the Crown in fee simple.

Mr. Marshall: But rates will not be paid if it is Crown land.

The MINISTER FOR LOCAL GOVERNMENT: No, the Crown does not pay rates, but if the board applied for the land to revert to the Crown because it was apparent that it could not collect rates, then the Crown could reallocate the land to some other person from whom rates might be obtained. Alternatively, if there appeared to be no possibility of any person being found to take up the land, it could remain vested in the Crown where it originally came from.

Mr. Marshall: Do you think in the circumstances that a seven-year period is enough?

The MINISTER FOR LOCAL GOVERNMENT: Yes; particularly taking into consideration the safeguards that are provided in the measure, I do not think there should be any greater period than seven years. The Bill provides that—

> The Minister shall consider the application and the circumstances surrounding the application and the land and if, upon consideration, he is of opinion that the land is owned in such circumstances and is so unsaleable that satisfaction of liability, actual or contingent, for rates in respect of the land is not reasonably probable and that having regard to all the circumstances it would be proper to do so he may grant the application, or if in his opinion it would not be proper to do so, he may refuse the application.

I think the member for Murchison will agree that in these circumstances where rates on unsaleable land have been left unpaid for seven years and apparently no-one is available to take over the land, and, further, that the road board should not be asked to continue to assess rates only to be required to request that the rates imposed should be written off in the course of time, the provision is satisfactory. Particularly is that so when it is remembered that in other circumstances a board cannot sell land in respect of which rates are in arrears for less than five years. Thus the proposal in the Bill is for a period of two years in excess of that already operating. Furthermore, the Minister will have to satisfy himself that the land is unsaleable.

Mr. Marshall: If unsaleable, you could not get another ratepayer for it.

The MINISTER FOR LOCAL GOVERNMENT: In some cases it might be possible to use the land for some other purpose, such as for a farm. It might again become Crown land and remain so. In some circumstances, it might be best placed there in the long run, particularly if it is land in respect of which no ordinary transactions could take place. It was suggested by one or two local authorities that such land should revert to the local authorities themselves. In all probability the member for Murchison and I will agree that that would not provide a very suitable answer to the problem. The land originally came from the Crown and, if it is no longer circumstanced so that rates can be collected from it, reversion to the Crown should be the best course. There may be one or two instances where in future the Crown might be able to find a new occupier for properties and in the circumstances, I move—

That the Bill be now read a second time.

On motion by Mr. Kelly, debate adjourned.

BILL—MUNICIPAL CORPORATIONS ACT AMENDMENT.

Second Reading.

THE MINISTER FOR LOCAL GOVERNMENT (Hon. A. F. Watts—Katanning) [9.8] in moving the second reading said: This is a Bill to amend the Municipal Corporations Act. Despite the apparent feelings of the member for Murchison, there are some rather different proposals in the measure although some are the same as I previously indicated. Most of the amendments embodied in the Bill have been expressly asked for by the Country Municipal Association and by certain metropolitan municipalities. The first of these is one that will enable municipal councils to make by-laws in connection with the management of swimming pools and conveniences therein, and also to regulate the erection and use of petrol pumps in streets and ways. With regard to the latter, it will be remembered that such a provision has been included in

the Road Districts Act for many years but apparently there has not been sufficient provision in the Municipal Corporations Act to deal with that aspect; and it has been asked for now. So far as I can see, there is no objection to such a provision being in the Municipal Corporations Act as well. The trend in some places in recent years has been to take—

Mr. Marshall: What law did the Kalgoorlie Municipal Council invoke in connection with its swimming pool?

The MINISTER FOR LOCAL GOVERNMENT: —petrol pumps off streets and place them on privately-owned land. In many places they will be found and I—this is purely a personal view—think they are a lot more service to the community if they are properly regulated and placed on streets and ways rather than down side alleys and on private land. However, I think the local authorities can be trusted fairly and reasonably to administer by-laws of that character, as the road boards have done.

Hon. F. J. S. Wise: There is an element of town planning in that, too.

The MINISTER FOR LOCAL GOVERNMENT: That is so. The member for Murchison wanted to know how the Kalgoorlie Council put in its swimming pool. I take it that the council did so by raising a loan in the ordinary way and proceeding to do the work, but what I said was that Clause 5 would enable councils to make by-laws in connection with the general management of swimming pools and conveniences therein. There has been in the Municipal Corporations Act a provision which permitted a council to make by-laws in respect of bathing resorts and I have no doubt that under that—if there are by-laws at Kalgoorlie, which I do not know—those by-laws have been made. But I understand that in this case also the request for this specific type of by-law for the management of swimming pools and conveniences therein came substantially at least from the Perth City Council which had been advised—and I think with some ground—that the existing by-law provisions in the Municipal Corporations Act were insufficient to enable valid and sufficient by-laws to be made for the required purpose. So in order to remove the matter from all reasonable doubt it was decided to submit this amendment to the Act.

The next clause will enable municipal councils which intend to provide houses for their employees to use their ordinary revenue for that purpose. At present only loan money can be used. The amendment will bring the powers of municipal councils and road boards in respect of this particular housing matter on all fours; in other words, they will be similar or the same. There is a further provision in the Bill regarding swimming pools, especially authorising municipal councils to provide from loan moneys the acquisition of land and the erection of swimming pools and conveniences. I do not doubt that it was possible to raise a loan before by obtaining special approval from the Governor in Executive Council for such a project to be a work for which loans might be raised. But it is hardly desirable that a responsible local authority should not have its powers defined fairly clearly in matters that are useful for the social betterment of the people over whose areas it has control. Therefore it is considered better to have specific provision in the Act that councils may provide from loan money for the acquisition of land and the erection of swimming pools and conveniences.

Then there is a portion of the Bill to which I had better make some special reference, providing for an amendment to Section 434 of the principal Act, which makes the discharge of any debt on the land in connection with the construction of drains and fittings or sewerage connections a fifth charge in respect of the collections from the sale of land for rates. Hitherto there has been no specific provision in regard to a reasonable priority, shall I say, for amounts which are owing on premises that have been sewered. Some local authorities, as is well known, have in the past put in sewerage installations; others contemplate doing so in the future.

It is considered that after the ordinary debts to the Crown, which will be found carefully set out in the existing section, they should be enabled, before other charges are paid—such as those to private mortgagees—to collect the amounts outstanding in regard to sewerage installations that have been made. That is the purpose of this clause which gives that particular charge a fifth priority under that section of the Act. It is aimed, at their request, at protecting councils against the loss of amounts advanced for the installation of house connections to sewerage systems where they exist.

Another clause of the Bill extends the time for owners to demand a poll in con-

nection with the raising of loans. At present one month only is allowed and it is proposed to make the time six weeks. That has been asked for by a number of local authorities which consider that a month is not long enough for the ratepayers to demand a poll concerning a loan about which there may be some conflict of opinion. I am not saying that in this case everybody agrees it is desirable to extend the time. One has to make up one's mind whether the period of one month in all parts of the State, taking into consideration the various factors involved, is fair to ratepayers and councils alike. Some local authorities and I myself consider that six weeks is a more reasonable period.

Another provision it is suggested should be altered is that concerning the number of ratepayers who may demand a poll. At present only twenty need ask for a poll and it must be granted by a municipal council. In the Perth Municipal Council area—though I have no exact figures—it is quite obvious there are at least 20,000 ratepayers entitled to demand a poll; and for 20 of them only to be required to do so in order to force the local authority to conduct a referendum on a loan proposal, could easily result in a few disgruntled people getting their own way. On the other hand, we have smaller municipalities where 20 might be a substantial proportion of the ratepayers.

So it is proposed that the number required shall be 50 or one-tenth of the total number of owners, whichever is the lesser in number. If one-tenth is only 15 there can be a poll if 15 demand one; but if one-tenth is 1,000 there can be a poll if 50 demand one. In that instance 50 would be the number, and it is hoped that by so increasing the figure the possibility of frivolous or vexatious applications for loan polls will be removed and satisfaction will be given to both large and small local authorities.

The last provision is one to which I have already made considerable reference when introducing another measure a few moments ago. I allude to agreements to be made between the Housing Commission and a municipal council in respect of the making of roads and the payment therefor, and the advancing of money by the Commission for the purpose of making roads where houses are being built by the Commission. I do not think I need reiterate the arguments I advanced a few minutes ago in connection with the other Bill save to say that there is no compulsion on a local authority. It is a matter of agreement between the Housing Commission and itself, and the proposals for the repayment of the money will be found to be identical with those in the previous Bill to which I referred. These proposals are also complementary to those which are to be found in the State Housing Act Amendment Bill.

Hon. F. J. S. Wise: I suppose that aspect will apply less to municipalities than to road boards?

The MINISTER FOR LOCAL GOVERNMENT: I would say so, but it was impossible not to include them because the circumstances might easily arise and, as I previously said, no harm could come of giving them the power. Much difficulty might arise, and in fact I think has already arisen in some cases, because they did not have the power. I therefore move—

That the Bill be now read a second time.

On motion by Hon. F. J. S. Wise, debate adjourned.

House adjourned at 9.22 p.m.

Legislative Council.

Wednesday, 10th September, 1947.

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

ELECTORAL—SWEARING-IN OF MEMBER.

The DEPUTY PRESIDENT: I have to announce that I have received a Commission