Legislative Assembly

Tuesday, the 20th September, 1966

CONTENTS

The SPEAKER (Mr. Hearman) took the Chair at 4.30 p.m., and read prayers.

BILLS (6): ASSENT

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

1. Commonwealth and State Housing Agreement Bill.
2. Foot and Mouth Disease Eradication Fund Act Amendment Bill.
3. Potato Growing Industry Trust Fund Act Amendment Bill.
4. Brands Act Amendment Bill.
5. Painters' Registration Act Amendment Bill.
6. Main Roads Act Amendment Bill.

QUESTIONS (11): ON NOTICE

ROADS

Marking in Country Areas

1. Mr. HALL asked the Minister for Works:

   (1) How many road marking machines are there employed by the Main Roads Engineering Branch in this State?

   (2) Does the department undertake road lining provisions for local authorities?

   (3) If "Yes," who meets the cost of the work involved and who makes the recommendation for priority of work?

   (4) Is he aware that there is a lag in road lining in this State which is undoubtedly a contributing factor to many road accidents?

   (5) Would he undertake to have the matter investigated with a view to rectification?

   Mr. ROSS HUTCHINSON replied:

   (1) One.

   (2) Yes.

   (3) The local authority.

   (4) Although the Main Roads Department's programme for road lining is increasing each year, the present machine is capable of keeping up with the required work. Nevertheless, with the rapid expansion of the bitumen roads at present being planned, it is apparent that a second machine will soon be required. Specifications for a new machine are at present being prepared.

   (5) Answered by (4).

PASTORAL LEASE No. 395/1014

Area, Stock Capacity, and Reason for Release

2. Mr. TOMS asked the Minister for Lands:

   (1) What is the area of pastoral lease 395/1014?

   (2) What stocking basis is used in arriving at a figure of 4,900 sheep for an area of 239,000 acres?

(3) What would be the assessment of the number of cattle this area would carry?

(4) If pastoral lease 395/1014 is considered uneconomic, why was it originally released?

Mr. LEWIS (for Mr. Bovell) replied:

(1) 131,000 acres.

(2) 1 sheep to 48 acres.

(3) The estimated carrying capacity would probably be 3 cattle to each one thousand acres of land comprised in the lease.

(4) When lease 395/1014 was approved in 1954, pastoral leases were not subject to the conditions now applying under the amendments to the Land Act, 1963.

NATIVE COMMUNITY CENTRES

Establishment in Country Towns

3. Mr. HALL asked the Minister for Native Welfare:

As there is a drift of aborigines into the larger country towns, what plans have the department in mind as to establishing native community centres in country towns?

Mr. LEWIS replied:

Social centres owned by the Department of Native Welfare already exist in several country towns for purposes of preschool training, adult education, social functions, etc., and more are planned as finance becomes available.

In addition, natives are encouraged to make use of those community facilities which are available to the general public.

RAILWAYS SALARIED AND WAGES STAFF

Long Service Leave: Method of Compilation

4. Mr. BRADY asked the Minister for Railways:

(1) Is it a fact—

(a) that salaried staff and wages staff are entitled to three months' long service leave after 10 years' service whilst in the service of the Railways Department;

(b) that the method of compilation for the two sections is worked out on different formulae?

(2) Is it likely the anomaly existing between the two systems will be changed during the current financial year?

Mr. O'CONNOR (for Mr. Court) replied:

(1) (a) Yes; salaried and wages staff are entitled to three months' long service leave after ten years' service for the first two ten-year periods and after every seven years thereafter.

(b) Yes; for wages staff the absence whilst clearing a period of long service leave does not count as service for subsequent calculations. This does not apply to salaried staff.

(2) The different conditions for salaried and wages staff have operated for many years and no change is contemplated.

ROAD TRANSPORT

Bus Routes: Numbering of Stopping Places

5. Mr. DAVIES asked the Minister for Transport:

(1) Is it still intended to number stopping places on M.T.T. bus and trolley bus routes?

(2) If so, what progress has been made in this regard?

Mr. O'CONNOR replied:

(1) and (2) It is intended to number the stopping places on two M.T.T. routes for trial purpose, and arrangements for this are at present in hand.

POWER STATIONS

Oil Fuel: Non-disclosure of Price

6. Mr. MAY asked the Minister for Electricity:

(1) Will he state why the price of fuel oil for power stations was not considered confidential in 1961 but now is?

(2) Will he state why the price of fuel oil is confidential while the price of coal is given every public publicity?

(3) Why the differentiation as between the two specified fuels?

Mr. LEWIS (for Mr. Nalder) replied:

(1) When the question was asked in 1961, the State Electricity Commission had purchased comparatively small quantities of oil at standard prices. It is now purchasing larger quantities under a private contract.

(2) In the Collie coal business there is virtually only one purchaser, and two supplying companies with established policies and a wide difference in their operating methods and prices.

(3) Answered by (2).

FLUORIDE TABLETS

Fluotabs: Calcium Content

7. Mr. TONKIN asked the Minister representing the Minister for Health:

(1) Are not the results obtained in promoting good teeth in children

by the use of fluotabs held to be superior to results obtained through fluoridation of water supplies?

(2) Do fluotabs contain calcium?

(3) If "Yes," in what form and quantity by weight per tablet?

(4) Is it considered that the presence of calcium in fluotabs contributes to their efficacy?

Mr. ROSS HUTCHINSON replied:

(1) It is quite possible for claims such as that implied in the question to be made by certain individuals; but authorities best qualified to express an opinion on this matter advocate the fluoridation of water supplies as the best method of providing supplementary fluoride; e.g.—

> No other vehicles or techniques for the prophylactic application of fluorides can at present replace the fluoridation of drinking water as a public health measure.
>
> (World Health Organisation, Technical Report No. 146, 1958, p. 21, para. 17.)
>
> . . . no other method . . . has been shown to be as effective or convenient as fluoridation of water.
>
> (British Ministry of Health publication "Fluoridation", 1963, p. 4, para. 3).

(2) On the assumption that the word "fluotabs" used by the honourable member relates to the fluoride tablets now being distributed by local authorities in Western Australia, the answer is "No."

(3) and (4) Not applicable.

PRISONS

Appointment of Comptroller-General

8. Mr. TONKIN asked the Chief Secretary:

(1) With reference to his reply to a question on the 31st August, has twelve months' consideration of the possibility of reorganising the administration of the Prisons Department enabled him to decide whether reorganisation is necessary?

(2) Does his assurance that the position of Comptroller-General of Prisons will be filled by the applicant "considered to be the best qualified to carry out the duties of the position" mean that actually the best qualified applicant and not one "considered" to be best qualified will be appointed?

(3) What criteria will be used to determine the "best qualified"?

Mr. CRAIG replied:

(1) The matter is still under consideration.

(2) and (3) I can only repeat my previous statement that the applicant considered to be the best qualified will receive the appointment.

KWINANA FREEWAY, AND NARROWS BRIDGE-CAUSEWAY FREEWAY

Priority of Construction

9. Mr. TONKIN asked the Premier:

(1) Is it proposed to build a freeway connecting the Causeway to the Narrows Bridge before the construction of the Kwinana Freeway beyond Canning Bridge?

(2) Of the plans for both freeways, which is the more tentative?

(3) Would not the reason given by him for refusing to make public proposals for the freeway connecting the Causeway to the Narrows Bridge as shown in plan 3034 T.B. 3324 apply with greater force, if valid, to the plans for the Kwinana Freeway?

(4) In the circumstances, will he explain why he refuses to make public plan 3034 T.B. 3324 although plans for the Kwinana Freeway have been published?

Mr. BRAND replied:

(1) Planning is not sufficiently advanced to enable a definite decision to be made. Both are long-range proposals, the development of which will depend upon the results of investigations at present being undertaken to determine the relative priorities for construction of these and other freeways.

(2) Neither proposal can be described as tentative. It is certain that eventually a high capacity road will be required from the Narrows interchange to the Causeway, as well as an extension of the Kwinana Freeway south from Canning Bridge. It is the exact alignment of these roads which has not yet been finalised.

(3) No. Plan 3034 is a preliminary design exercise prepared in July, 1964, and has not been adopted. The plan shows Heirisson Island as a promontory which would involve far more reclamation than shown in the region plan, whereas plans for the extension of the Kwinana Freeway recently published show the alignment as contained in the region scheme and an alternative alignment involving

a reduced area of reclamation and less disruption to properties and river activities.

(4) No. Answered by (3).

POTATOES

Cartage: Policy on Tenders

10. Mr. TONKIN asked the Minister for Agriculture:

(1) On what date prior to Saturday, the 10th September, 1966, did the Western Australian Potato Marketing Board last invite tenders for the cartage of potatoes to and from the board's store at Fremantle (metropolitan area only)?

(2) Is there a definite policy in connection with the calling of tenders for cartage?

(3) If "Yes," what are the details?

(4) How many years has the present contractor been carting for the board?

(5) Is he aware that a person who has knowledge of the present contract rate has been approaching persons likely to be interested in tendering and informing them of the existing rate for the purpose of enabling them to put in a lower tender?

(6) Is the purpose of this procedure to get rid of the present contractor because he disclosed to the board information concerning a number of unsatisfactory occurrences?

Gifts by Board

(7) What quantity of potatoes is, on the average, given away by the board on the score of public relations?

(8) Who are the recipients of these free gifts who most regularly benefit?

(9) What is the estimated cost for last financial year?

Mr. LEWIS (for Mr. Nalder) replied:

(1) For at least the past 18 years, cartage to and from the board's store at Fremantle has been negotiated from time to time between the board and the carriers.

(2) Yes.

(3) Tenders will be called annually.

(4) Approximately 18 years.

(5) No.

(6) Answered by (5).

(7) (a) Approximately 6 to 8 tons second-grade potatoes per month.

(b) Approximately 2 to 3 bags number one grade per month.

(8) (a) Swanleigh Orphanage.
Spastic Centre.
Wandering Native Mission.
Salvation Army Home.
Methodist Children's Home.
Sister Veronica.
Parkerville Children's Home.
St. Joseph's Orphanage.
Pallottine Native Mission.
Bindoon Boys Home.
Clontarf Boys Home.
St. Bartholomew's Home.
Sisters of the Poor.
Slow Learners.
Sisters of Charity.
Tardun Boys.

(b) Business associates.

(9) (a) Second grade is normally sold as stock food at 30c per bag. Cost for last financial year, approximately $400.

(b) Approximately $180 last financial year.

FOKKER FRIENDSHIP AIRCRAFT

Grounding of Ex-Philippine Aircraft

11. Mr. RHATIGAN asked the Minister for Transport:

(1) On how many occasions has the ex-Philippine Friendship aircraft been grounded during its 1,500 flying hours in W.A.?

(2) At what airports was this plane grounded and for what number of hours?

(3) Were passengers on this plane caused any inconvenience and how long was it necessary for them to wait for air transport to convey them to their destination?

Mr. O'CONNOR replied:

(1) Delays of an hour or more to the aircraft concerned, registration VH-MMU, have occurred on six occasions since its commencing service in February last.

(2) Onslow—two hours.
Geraldton—one hour.
Carnarvon—five hours. A relief aircraft was flown empty from Perth to uplift the passengers.

Derby—12 hours. Relief aircraft was sent from Darwin. This had to remain at Wyndham overnight owing to night operations being prohibited there. Passengers were accommodated overnight at the company's expense and conveyed to destination next day.

Port Hedland and Wittenoom—30 hours. Passengers were accommodated at Port Hedland overnight at the company's expense and transferred early next day to another flight to Wittenoom,

where further work was necessary which took three hours before the flight was resumed.
Port Hedland—16 hours. Passengers were accommodated overnight at the company's expense.

(3) See answer to (2).

QUESTIONS (2): WITHOUT NOTICE

MITCHELL FREEWAY

Work near Parliament House: Effect on Buildings

1. Mr. GRAYDEN asked the Minister for Works:

Is he aware that at various times today a machine being operated in the vicinity of Parliament House caused vibrations which could be felt throughout the building?

Mr. Graham: Hear, hear!

Mr. GRAYDEN: In view of cracks which appeared in this building some years ago, when extensions to the building were being made, will he ascertain the type of machine causing today's vibrations with a view to ensuring that Parliament House, and other buildings in this area, will not be damaged by the use of this machine?

Mr. ROSS HUTCHINSON replied:

To the first part of the honourable member's question, the answer is "No." However, I am prepared to believe that this was so. I will have the necessary inquiries made to ascertain the type of machine he alleges caused these vibrations and try to determine whether or not these would have any effect upon the Parliament House buildings.

FLUORIDATION OF WATER SUPPLIES

Qualifications of Authorities

2. Mr. TONKIN asked the Minister representing the Minister for Health:

(1) Has he given further consideration to question 15(6), of the 30th August, 1966, the answering of which was deferred pending the furnishing of *curricula vitae* concerning certain scientists?

(2) Is he now prepared to answer the question?

Mr. ROSS HUTCHINSON replied:

(1) and (2) Yes. I should explain that an undertaking was given some time ago that if certain information were supplied by the honourable member an answer would be given.

Mr. Tonkin: No, that was not said. I was not promised an answer but I hoped for one.

Mr. ROSS HUTCHINSON: I said "an undertaking." However, I will not quibble with the honourable member. I have a statement which was prepared and which, apparently, was just completed at the time the honourable member asked his question without notice. This is the statement I have—

> In answer to question 15(6), the 94th question asked on this subject by the honourable member, on the 30th August, he was advised that further consideration would be given to the question if additional details were furnished concerning the qualifications and *curricula vitae*, together with publications by the persons mentioned in his question.
>
> He has now provided some details of the qualifications of some of these persons without relevant publications indicating their views on fluoridation of water supplies at the level of one part per million (as advocated by authoritative bodies).
>
> Question 6 asks: "Who in the following list of scien—tists—
>
> (a) is not a reputable authority?
>
> (b) does not consider the controlled fluoridation of water supplies to be dangerous?"
>
> In answer to (a), all of the gentlemen whose *curricula vitae* has been supplied would appear to be reputable authorities in their special fields. Professor Phillips appears to be an agricultural chemist and Professor Steyn a veterinarian, whilst Professor Theorell's particulars indicate that he is a medical biochemist of repute, with strong musical interests.

Mr. Hawke: Like the Minister for Industrial Development.

Mr. ROSS HUTCHINSON: To continue—

> Their standing in the issue under discussion may be judged accordingly.
>
> In answer to (b), if copies of the relevant publications of these persons are provided I may be in a position to give a further answer.

BILLS (8): INTRODUCTION AND FIRST READING

1. Education Act Amendment Bill.
   Bill introduced, on motion by Mr. Lewis (Minister for Education), and read a first time.
2. Fisheries Act Amendment Bill.
3. Fluoridation of Public Water Supplies Bill.
   Bills introduced, on motions by Mr. Ross Hutchinson (Minister for Works), and read a first time.
4. Workers' Compensation Act Amendment Bill.
   Bill introduced, on motion by Mr. O'Neil (Minister for Labour), and read a first time.
5. Companies Act Amendment Bill.
6. Strata Titles Bill.
7. Judges' Salaries and Pensions Act Amendment Bill.
   Bills introduced, on motions by Mr. O'Connor (Minister for Transport), and read a first time.
8. Firearms and Guns Act Amendment Bill.
   Bill introduced, on motion by Mr. Craig (Minister for Police), and read a first time.

BILLS (2): THIRD READING

1. Stock Diseases Act Amendment Bill.
   Bill read a third time, on motion by Mr. Lewis (Minister for Education), and transmitted to the Council.
2. Bread Act Amendment Bill.
   Bill read a third time, on motion by Mr. O'Neil (Minister for Labour), and transmitted to the Council.

EVIDENCE ACT AMENDMENT BILL

Second Reading

Debate resumed from the 7th September.

MR. EVANS (Kalgoorlie) [4.57 p.m.]: This Bill is rather novel, in my limited experience, because it is a Bill to amend an Act purely and simply by the addition of several clauses which will, of course, become new sections of the Act. Amendments are generally a practitioner's nightmare, because after an amendment is passed it requires writing into the Act, or insertion by manipulating a pair of scissors and a glue pot. Such difficulties should not be experienced with this measure.

As a result of the passing of the Bill, we might, after some years, say that the Evidence Act, like Topsy, just grew. I support the passage of the Bill. Its purpose is to facilitate the admission, as evidence, of photographic reproductions of documents in legal proceedings before any court. In 1964 the principal Act was amended to make admissible photographic reproductions of documents and material in the custody of the Library Board. Today such reproductions are validly admissible before a court.

All that Parliament is being asked to do on this occasion is to extend that principle so that recognition may be given to all other types of reproductions of documents which, in themselves, can be admitted as evidence before a court.

The Minister mentioned the best evidence rule. This rule, or what remains of it, insists on the production in court of the best available evidence in any given case.

In practice, this boils down to the court insisting on the production of the original of a document instead of a copy. A copy is only admissible if evidence can be given, and, of course, believed, that for some good reason the original is not available or cannot be produced. The purpose of the amending Bill, then, is to state quite clearly that where under certain conditions—and the conditions are laid down in the Bill—a reproduction of the document is made, and if that document itself is capable of being admitted under the best evidence rule, to all intents and purposes the production of that document, provided the reproduction is carried out in accordance with the conditions of the Bill, will likewise be admissible.

Members will readily see the advantages that will be extended to the litigants and the convenience that will flow in terms of time saved, and, in many cases, expense saved, to all persons having business with a court of law. Therefore these amendments are highly desirable. I repeat: The Bill does set out quite clearly the terms and conditions under which, and only under which, a reproduction will be deemed, for the purpose of the best evidence rule, to be the best evidence.

Members will see the advantage if their attention is drawn to a very old document. Under the present law, the court could insist on the production of an old document under the best evidence rule. Such a document could be torn or tattered; and it would often annoy a person who had the custody of that document to let it out of his custody fearing some further harm might come to it. In such a case the document could be reproduced and the reproduction made admissible in a court of law. Members will also see the advantages if they consider the storage problems that result from the requirement of the law at the present time that documents can be admitted only in their original state. There are problems that occur in the storage of these documents year after year on the offchance that some time a particular document might be called for as evidence in a court.

The modern advance in photography in terms of microfilming enables a large number of documents to be photographed,

and the finished product, of course, is neat and compact. These microfilm records will not present the problem of storage that exists today.

I would like to make one particular reference to clause 15 which adds proposed new section 73N to the Act. This clause provides—

> 73N. A presumption that may be made in respect of a document over thirty years old may be made with respect to a reproduction of that document admitted in evidence under this Division in all respects as if the reproduction were the document.

The consequence of this is that at common law, if a document coming from proper custody could be shown to be 30 years old or more, then it is *prima facie* evidence as to its contents. That is the common law rule. All this clause purports to do is to say that in the case of any such document being 30 years of age or more, it would be admissible in a court of law and, likewise, a reproduction of such a document would also be admissible.

I would like to draw the attention of the House, and particularly the Minister, to a very old Western Australian Statute known as the Vendor and Purchaser Act, 1878. The preamble to this Act reads as follows:—

> WHEREAS it is expedient to facilitate the transfer of land by means of certain amendments in the law of vendor and purchaser: Be it enacted by His Excellency the Governor of Western Australia and its Dependencies, by and with the advice and consent of the Legislative Council thereof, as follows:—

I will now quote section 2—

> In the completion of any such contract as aforesaid, and subject to any stipulation to the contrary in the contract, the obligations and rights of vendor and purchaser shall be regulated by the following rules, that is to say:—

I am only concerned with the second rule, which is as follows:—

> Second.—Recitals, statements, and descriptions of facts, matters, and parties contained in deeds, instruments, Acts of Council, or statutory declarations twenty years old at the date of the contract shall, unless and except so far as they shall be proved to be inaccurate, be taken to be sufficient evidence of the truth of such facts, matters, and descriptions.

Mr. O'Connor: That is a Victorian law?

Mr. EVANS: No; it is the Vendor and Purchaser Act, 1878, which applies in Western Australia today. I draw the attention of the House to the situation that will come into being if we enact proposed new section 73N, which provides that a reproduction of a document 30 years of age or more is admissible as evidence when produced in court. The admissibility of that document will have a strange bearing on any document coming within the meaning of section 2 of the Act I have just quoted, because that Act states that this type of document can be admitted in a court of law if it can be shown that the document is 20 years old or more.

This means that a statutory declaration coming within the meaning of this Act has to be produced in a court of law; and, if it can be shown that the document is 20 years old or more, then the document is admissible. If, after the passing of this proposed new section, one were to present a reproduction of a statutory declaration coming within the meaning of the Act, even though the original would be admissible, the reproduction, because of section 2 of the Vendor and Purchaser Act, would not.

I think the whole tenor of these amendments is to say that the reproduction is, for the purposes of evidence, as good as the original. Any document coming within section 2 of the Act I quoted will be better than a reproduction; and if a document is only 20 years old the original can be admitted, but not the reproduction.

I feel the Government should consider that particular situation. I would much prefer to see a further amendment to abrogate the common law rule and provide for a term of 30 years rather than a period of 20 years. If that amendment had been effected, as in Victoria, the situation I envisage would be covered.

However, even though the overall effect of this amendment to the Evidence Act will be advantageous to all concerned, I think the Government should consider this matter. Accordingly, I support the second reading.

MR. O'CONNOR (Mt. Lawley—Minister for Transport) [5.10 p.m.]: I thank the member for Kalgoorlie for his support of this Bill. I feel that the Minister for Industrial Development, when introducing the measure, and the member for Kalgoorlie have both covered the points contained in it.

The principles contained in this Bill came about following the discussions of a committee set up by the Attorneys-General in 1963. These principles were accepted by all States in 1965; and they were requested by various sections of the community, including the Law Society, accountants, and others.

The point mentioned by the member for Kalgoorlie in connection with section 15—presumptions as to ancient document—is correct in regard to Victoria. That State reduced the period to 20 years in common law. However, I believe that prior to

1958, the term in the Victorian Act was 30 years, although this was reduced in 1958 to 20 years. When that State introduced the new Bill in 1965, the 1958 amendment enabled the Government to include the period of 20 years.

If we were to make this amendment now —and I am thankful the member for Kalgoorlie has not done so—it would mean an amendment later on to another Act. I am of the opinion that it would be better for another Bill to be drafted and used in connection with the other Act. I thank the member for Kalgoorlie for his comments.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

DEBT COLLECTORS LICENSING ACT AMENDMENT BILL

Second Reading

Debate resumed from the 7th September.

MR. EVANS (Kalgoorlie) [5.16 p.m.]: Before discussing the simple amendments proposed in this Bill, I would like to indicate that a tendency has arisen in the drafting of legislation in this State—I do not know whether it has arisen in the other States—for the word "license," when used as a noun, to be spelt with a final "s" whereas it should be spelt with a final "c" when it is so used. The final "s" is reserved for when the word is used as a verb. My remarks are not particularly relevant on this occasion, because the Act is the "Debt Collectors Licensing Act." However, I do not know why the draftsmen insist on using the "s" in the word "license" when the "c" should be used if the word is a noun.

This is a very simple measure; and, although no-one with a red banner is calling loudly for assistance on behalf of the debt collectors and claiming that this amending Bill is a dire necessity, I can see no objection to it, and accordingly I intend to support it.

The Bill contains two amendments, the first dealing with the case of a debt collector who desires to renew his license. Renewal is necessary every 12 months. Section 8 of the Act provides that in the case of an initial application for a license, or an application for a renewal of a license, the applicant shall accompany his application with three testimonials from three reputable persons. However, it appears that no prohibition is contained in the Act against an applicant supplying those same three testimonials each time he applies for a renewal. The Act does not state that a fresh set of testimonials is required, and so the same three testimonials can be used more than once.

It seems ridiculous that these testimonials are insisted upon for a renewal when we know that when a person applies for a license, his standing and character are authenticated before a license is granted. Therefore, as I have said, it is unnecessary and red-tapish for the supply of these testimonials to be insisted upon after the initial license has been granted, particularly when inquiries concerning the applicant's character and standing are renewed upon the application for a renewal of the license.

This Bill provides that in the case of a renewal, such testimonials will no longer be needed, unless the court hearing the application for the renewal otherwise requires. Therefore, if an objection is raised to the license being renewed, the court could possibly be convinced by the objector that fresh testimonials were required, and the court could then insist that they be furnished.

The other amendment purports to clarify the position when an applicant applies to the local court for a license, or a renewal of a license, and the local court rejects the application. The Minister has stated that although he has no doubt the Supreme Court Act provides for appeals from the local court, and does not insist on such trivial matters being brought before the Full Court, the section governing appeals from the local court is capable of being interpreted in this way. Therefore this Bill clearly provides that where an applicant wishes to appeal against the decision of the local court, such appeal shall be heard before a single judge of the Supreme Court.

Those are the amendments and my comments on them, and I support the second reading.

MR. O'CONNOR (Mt. Lawley—Minister for Transport) [5.22 p.m.]: I agree that these amendments are not particularly earth-shattering, but are virtually to clarify the law and facilitate the procedure required by anyone making an application for a license. It was felt that when a person applies for a renewal of a license he should not have certain problems to face. When he applies initially for a license, he must have a number of people to certify for him.

Mr. J. Hegney: It all depends on his conduct in the meantime.

Mr. O'CONNOR: If his conduct has altered in the meantime, he would have to follow the same procedure as he did when he applied for the initial license.

I wish to make one point, and that is that in the original legislation a provision states that when these references are submitted, the clerk of courts shall give them to the police, who shall then make certain investigations. This is making further work which appears unnecessary.

The second point mentioned by the member for Kalgoorlie was included because the Law Society believed, as the member for Kalgoorlie pointed out, that some doubt existed. The Crown Law Department was of the belief that the section was all right, but to clarify the position, the Bill has been introduced.

I thank the member for Kalgoorlie for his support of the Bill, which I commend to the House.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

LEGAL PRACTITIONERS ACT AMENDMENT BILL

Debate resumed from the 7th September.

MR. EVANS (Kalgoorlie) [5.26 p.m.]: This Bill streamlines, it might be said, the qualifications required of a person seeking admission to practise in this State as a legal practitioner. In Western Australia a legal practitioner means a barrister, solicitor, and, for good measure, a proctor. This is in contrast to the situation in England, and in at least one of the other Australian States, where the positions of barrister and solicitor are quite separate. Such is not the case in Western Australia.

The Minister informed us that this Bill has the approval of the Law Society and gives legislative effect to the wishes of the Barristers Board. It would seem the measure makes no great change at all in the application of the law prevailing up to date in respect of those persons who qualify for admission in Western Australia. The main purpose of the Bill, as I see it, is to regulate the entry of persons who have qualified elsewhere.

This matter has been one of concern in recent years because it does touch upon the recognition of qualifications obtained elsewhere. We are also concerned with the problem of reciprocity. The Barristers Board believes that the community at large is entitled to the services of people with the highest qualifications.

All these matters must be considered each time an application is received by a person who has obtained his qualifications elsewhere, because the subjects studied and the examinations passed are not always identical with the relevant counterparts in Western Australia. A difference of opinion exists between the Barristers Board in Western Australia and the counterpart of that authority in the other States in regard to the right and just approach to this matter. As the Minister said, to recognise any qualifications at all would hardly be fair to the community at large, and yet not to recognise those qualifications would be extremely unfair.

Therefore this Bill seeks to give the Barristers Board the power to consider each application on its merits; that is, an application from a person who has qualified elsewhere. As the Bill states, the board must decide, having regard to the inquiries made into the particular applicant, whether or not he shall be admitted.

Members may feel there is some danger in giving such a wide discretionary power to a body. However, I would like to mention that in the early days before our rules of equity had crystallised into the hard and fast rules that exist today, the King's Chancellor, who was the King's spiritual and legal adviser, was authorised by the King to receive petitions from aggrieved persons. These were the persons who were aggrieved by the common law of the day. People who could not get satisfaction, or who did not feel that they had received justice from the common law, had the right to petition the King and the King would pass these petitions on to his chancellor. The practice grew to the point where the chancellor was authorised by the King to exercise his discretion in respect of these petitions.

Mr. J. Hegney: An ombudsman, even then!

Mr. EVANS: Even in those days the people began to question the right of this discretion. There was one great legal luminary by the name of Selden, and this name is highly regarded in the legal sphere—I believe there is a society called the Selden Society. Selden said this—

> One chancellor has a long foot.
> Another a short foot.
> A third an indifferent foot.
> Yea, tis the same thing in the chancellor's conscience.

However, if we refer to legislation today, I feel we do not have the same uneasiness when vesting any reputable and responsible bodies with such discretion, because our legislation abounds with the delegation of such authority by Parliament. In this particular instance, I feel it is the right and just move to deal with what is, after all, a very ticklish problem, or with what can be a very ticklish problem, in particular cases. I consider this is the right approach and I readily support the measure.

MR. O'CONNOR (Mt. Lawley—Minister for Transport) [5.33 p.m.]: I thank the member for Kalgoorlie for his support of this measure. As has been pointed out, this was recommended initially by the Barristers Board and supported by the Law Society. This legislation has been put forward in an endeavour to make sure that those coming from outside the State, and from overseas, do, at least, come up to the standard of those persons who have qualified within this State as lawyers or barristers. I think the passing of this Bill can only improve the standard

in the State, and I am sure that all members would wish this to be so. I thank the member for Kalgoorlie for his support.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

BILLS OF SALE ACT AMENDMENT BILL

Second Reading

Debate resumed from the 7th September.

MR. EVANS (Kalgoorlie) [5.36 p.m.]: The need for a Bill to amend the Bills of Sale Act can be said to arise because of the legal effect of the transfer of a chattel from A to B when the title in the chattel is transferred but the possession is not, or when the title is not transferred but possession changes hands. Of course, what I have said must be regarded as a generalisation and a simplification of various aspects of community life which give rise to transactions calling for the use of a bill of sale.

The principal Act regulates the use and the legal effect of bills of sale. One might say that whereas a mortgage is used in respect of a certain land dealing, a bill of sale is the document used in respect of a comparable dealing with a chattel.

In the principal Act, a chattel is defined to include the term "growing crops." The first amendment in this Bill seeks to widen the definition of the term "grain" to include vegetables, cotton, and clovers.

From private conversation with the Minister, I understand that he intends, at the Committee stage, to move to amend this provision by extending the definition of "growing crops" to include, not only these words before us; that is, vegetables, cotton, and clovers, but also the word "lucerne." If the Minister does this, I agree to support that extension, because it seems a logical one to me.

The reason the addition of these words is desirable becomes apparent if one looks at the proposed amendment to section 17P. of the principal Act. This section occurs within part IV of the Act. This part deals with bills of sale by way of security. It is a general rule in respect of such bills of sale that notice of intention to register them must be given before registration can be effected.

However, section 17P. provides that this general rule shall not apply in the case of a bill of sale concerning wool, stock, or crops. Amendment of the Act in this way will enable a bill of sale to be given to the grantee concerned by a farmer, or anyone growing vegetables, cotton, clovers or lucerne in respect of the cost involved in planting these items, the materials used in spraying them, and the actual spraying.

These days, one readily appreciates how important it is for a farmer, or a producer, to be able to spray his crops; and, of course, it becomes necessary from an economical point of view that the cost involved can be covered by a bill of sale by way of security. This amendment will enable that extension to be made.

Another amendment deals with the extension of the time in which a bill of sale which is out of time can be brought back into the fold and registered. Under the present law, if a bill of sale is out of time, only a judge of the Supreme Court can extend the time in which it can then be registered. This Bill sets out to provide that in certain circumstances the Registrar of Bills of Sale can, himself, register or, at least, extend the time. He can only extend it within a certain period, and the period within which a bill of sale can be registered is set out in the Bill.

This Bill does not seek to curtail the power of a judge in any way, because the provision enabling a judge to extend the time will still remain and this amendment will be an added provision. It should be much more convenient for grantees, or representatives of grantees, to have bills of sale which, for some reason or other, have got out of time to be registered within a limited time. I feel too, that this provision will be much appreciated by the judges of the Supreme Court. It will mean that only bills which are well and truly out of time will be brought to their attention. The minor delays will be effectively and appropriately dealt with by the registrar, and this is what the Bill seeks to achieve.

I am sure members will be pleased to hear that, for the time being, this is the last of me, and also that I support this Bill.

MR. GUTHRIE (Subiaco) [5.43 p.m.]: I wish to take the time of the House for a little while on this particular Bill because, unfortunately, this Bill perpetuates an anachronism which was inflicted on the people of Western Australia in the year 1906. This was inflicted on them after a very long and heated debate, both in this Chamber and in the Legislative Council, when the 1906 amendment to the Bills of Sale Act was passed and provided for notices of intention to register a bill of sale by way of security.

This State and Tasmania—I think I am correct in citing the latter—are the only parts of the British Commonwealth which require notices of intention to register any securities and apply them to bills of sale by way of security. In Victoria, which is the only other place that I have been able to discover where a bill of sale is not automatically registered on presentation, the procedure is slightly different. The bill is lodged in the registry and lies for a period of 14 or 15 days and then it is registered. No particular form of notice of intention to register is required.

The peculiarities of this law, which, I think, after 60 years should be reviewed, are that a bill of sale given by a company requires notice of intention to register, but a debenture given by a company which mortgages the whole of its chattels and the rest of its undertakings, and its real estate as well, does not require such notice. A debenture registered by a company can be registered without notice, and a mortgage given by any person over his real estate can, of course, be registered without notice. An assignment of interest under a life policy, or any other type of personal property which does not come within the definition of "chattel" under the Bills of Sale Act, can be carried into effect without any notice and without giving any creditor the right to object thereto.

Strangely enough, in Tasmania not only can a creditor *caveat* a bill of sale, but a person who claims ownership of a property can also lodge a *caveat*. Why that is required, I would not know; but, very obviously, if a grantor gives an assignment of chattels which he does not own, it could not be effective at all. Therefore it should not be necessary for the real owner to come along and lodge a *caveat*. We have not placed that provision in our Act.

It is somewhat interesting to read the debates that occurred in 1906 and to discover that four years previously, in 1902, an attempt was made by the Perth Chamber of Commerce to have this provision put into the Statute. That attempt was defeated. I understand that another attempt was made some years later and this also was defeated. In 1906, the legislation was, in fact, passed, I think, after two divisions in this Chamber, by a majority of one, but, at one stage, was defeated in another place. However, it was subsequently restored to the notice paper and became law.

Quite frankly, I have never been able to understand what it achieves and what virtue the provision has, because already in the Bills of Sale Act there are provisions to protect the rights of execution creditors, and there are also provisions in the Bankruptcy Act to protect creditors where unfairness arises. In any event, when any other type of mortgage or security is given, other than a bill of sale, it is covered under the bankruptcy law; and I have never been able to understand why the giving of a bill of sale by way of security should be in this peculiar place all by itself.

I am quite happy to support this measure—I realise what I have suggested is somewhat revolutionary—but I hope the Minister in another place will have another look at the Bills of Sale Act to ascertain if this provision for notice of intention to register a bill of sale should not be taken out of our legislation so that this State may fall into line with most other communities in the British Commonwealth.

MR. O'CONNOR (Mt. Lawley—Minister for Transport) [5.47 p.m.]: I thank those members who have spoken for their support of the Bill, and I certainly hope the support given by the member for Kalgoorlie this afternoon to this measure will continue with other Bills in the future. I also thank the member for Subiaco for his general support of the measure.

As mentioned by the member for Kalgoorlie, in Committee I intend to move an amendment to clause 3 to insert the word "lucerne," because it is considered there is no reason why it should not be included in the legislation. Lucerne is grown and used quite extensively today, and therefore it should have the same consideration as the other crops mentioned. There is no need for me to make any further comment until the Bill goes into Committee.

Question put and passed.

Bill read a second time.

In Committee

The Chairman of Committees (Mr. W. A. Manning) in the Chair; Mr. O'Connor (Minister for Transport) in charge of the Bill.

Clauses 1 and 2 put and passed.

Clause 3: Section 5 amended—

Mr. O'CONNOR: As I pointed out a few moments ago, it has been brought to the notice of the Minister in another place that lucerne could and should be included in the wording of this clause. Therefore, I move an amendment—

> Page 2, line 6—Insert after the word "cotton" the word "lucerne."

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 4 to 6 put and passed.

Title put and passed.

Bill reported with an amendment.

BILLS (6): RETURNED

1. Wundowie Works Management and Foundry Agreement Bill.
2. Wood Distillation and Charcoal Iron and Steel Industry Act Amendment Bill.
3. Fruit Cases Act Amendment Bill.
4. Industrial Lands (Kwinana) Railway Bill.
5. Leslie Solar Salt Industry Agreement Bill.
6. Agricultural Products Act Amendment Bill.

Bills returned from the Council without amendment.

CORNEAL AND TISSUE GRAFTING ACT AMENDMENT BILL

Receipt and First Reading

Bill received from the Council; and, on motion by Mr. Ross Hutchinson (Minister for Works), read a first time.

CEMETERIES ACT AMENDMENT BILL

Second Reading

Debate resumed from the 7th September.

MR. HAWKE (Northam—Leader of the Opposition) [5.55 p.m.]: In the normal course of events the member for Bayswater would have resumed the debate on the Bill but, unfortunately, he had to go to Busselton to attend the funeral of a relative. As I understand it, the measure is being introduced in anticipation of a new cemetery being built in the metropolitan area. The existing public cemetery at Karrakatta is expected to reach full capacity —if that is the correct way to express it— in some 10 or 12 years' time.

The new cemetery is to be established just off Wanneroo Road, approximately 17 miles from Perth. It is to be known as the Pinaroo Cemetery. This is very interesting to me, because in the State of South Australia—about which some members may have heard something—there is a town and district called Pinaroo. It is a wheat and sheep area and is a very much alive town and district. I am not sure what the word or term "Pinaroo" means. I imagine it is a native word and—if it be possible—I would like to know before the debate finishes what the term means. Pinaroo in South Australia is certainly not a cemetery, because it is not dead by any means. It is very much alive.

Mr. Graham: Pin a kangaroo down, sport.

Mr. HAWKE: This Bill seeks to give considerable authority to the trustees of a public cemetery. The purpose behind that is to enable the trustees of the proposed new Pinaroo Cemetery to develop the cemetery on what might be regarded as orderly and very good lines.

Mr. J. Hegney: Modern lines.

Mr. HAWKE: For instance, the trustees are to be given the legal right to lay out lawns, to plant trees and shrubs, and to declare such an area within the cemetery an area where bodies shall not be buried. The trustees are also to be given power to have control over monuments, including the sizes, and also control over a number of other matters, all of which are appropriate to the development and management of a cemetery.

In this regard my own personal views are that I am a bit with the philosopher who, very many years ago, when asked where he would like to be buried after he died, said, "Bury me wherever you please if you can lay your hands upon me." There may be a great deal of truth in that if we consider a man apart from his bones, and whatever else might remain after death has come. It is desirable in every way for the trustees to be given the powers set down in this Bill. I am sure the exercise of them by the trustees will lead to the development of the Pinaroo Cemetery in a manner which will reflect credit on the trustees and give a great deal of satisfaction and comfort, especially to the relatives of those people who, after death, will be buried in that cemetery.

To save me the necessity of raising the matter in the Committee stage, I would like to refer to clause 3 (5) which appears on page 3 of the Bill. It states—

> In addition to any by-laws that the trustees of a public cemetery may make . . .

I am not very keen on the use of the word "that" in the situation where it occurs. I think a much better word could have been chosen by the draftsman. I hope the frequent use of the word "that" will be discouraged among officers of the Crown who prepare Bills for submission. That is my view; and that is that on that point!

MR. LEWIS (Moore—Minister for Education) [6.1 p.m.]: On behalf of the Minister representing the Minister for Local Government—I was given the task of introducing the Bill before us—I thank the Leader of the Opposition for his support. This is one of those measures which are necessary to be introduced with the passage of time. As everyone knows, death is inevitable. The Government will make provision in the future for the use of the cemetery at Pinaroo, after Karrakatta Cemetery has ended its useful life as a burial ground.

The Karrakatta Cemetery Board has quite properly inspected modern cemeteries elsewhere. It intends, under the legislation before us, to lay out the new cemetery at Pinaroo, under up-to-date lines and, as the Leader of the Opposition said, to carry out burials in an orderly fashion so that the sensitivities of bereaved relatives are not offended.

I cannot offer any explanation of the meaning of the word "Pinaroo," Like many Western Australian names, I suppose it is derived from some native term. I will endeavour to find out the meaning for the Leader of the Opposition.

Mr. Graham: Give it to us at the third reading stage.

Mr. LEWIS: I shall if I can get it within the time. I do not know the extent of the research that is involved. I thank the Leader of the Opposition for his support of the measure.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

House adjourned at 6.6 p.m.