Although Section 58 (1)(b) of the Supreme Court Act provides that the Full Court shall hear and determine appeals from a judge sitting in court or in chambers, and other matters mentioned in that section, the High Court has thrown doubt on the efficacy of the provision in these words—

> In the enactment of Section 58 (1) (b) of the Supreme Court Act, 1935, it seems reasonably clear that no more was intended than to provide for the distribution of business, as the heading of the part in which the section stands seems to show.

The heading of that part, Part IV, is "sittings and distribution of business."

Except in Section 58 (1)(b)—and the dictum of the High Court just quoted throws doubt on this construction—there is nothing in the Supreme Court Act which specifically confers on the Full Court jurisdiction to hear and determine the matters mentioned in that section. This might have been an accidental omission.

It will be seen that Section 58 has a subsection number (1), but no other subsection. It seems possible that the draftsman intended to add a paragraph numbered (2), providing specifically for that jurisdiction, but somehow overlooked it when the draft was being assembled.

There is no need to stress the desirability of resolving with the least possible delay the disturbing doubts which have now arisen.

The Bill therefore seeks to specifically confer on the Full Court retroactively from the commencement of the Supreme Court Act, 1935, jurisdiction in relation to all matters mentioned in Section 58 (1) as doubt may possibly be felt as to that jurisdiction of the Full Court. I move—

> That the Bill be now read a second time.

On motion by Hon. H. K. Watson, debate adjourned.

House adjourned at 6.9 p.m.

Legislative Assembly

Friday, 22nd November, 1957.

CONTENTS.

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

BILLS (2)—MESSAGES.

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

1, Town Planning and Development (Metropolitan Region).

2, Town Planning and Development Act Amendment.

QUESTIONS.

EDUCATION.

(a) Disposal of Nightsoil, Glenorchy School.

Mr. W. A. MANNING asked the Minister for Education:

(1) Is he aware of the article and picture in the "Weekend Mail" of the 16th November, regarding the disposal of nightsoil by the students when they attend the Glenorchy school?

(2) Is he aware of the fact that the offer of the parents and citizens' association to provide and keep filled a 10,000 gallon tank of water was not accepted?

(3) Does he still approve of students emptying nightsoil into holes in the school ground and having no pan-washing or cleansing facilities?

(4) What does he intend to do about it.

The MINISTER replied:

(1) No.

(2) Yes. The Public Works Department advised that a 10,000 gallon tank of water would be insufficient to maintain supplies of water necessary for a septic installation in a school of the size of Glenorchy.

(3) I have never approved.

(4) This matter is beyond the jurisdiction of the Education Department.

(b) Classrooms, South Bunbury School.

Mr. ROBERTS asked the Minister for Education:

(1) How many—

(a) classrooms;

(b) students;

are at the South Bunbury school at present?

(2) What number of—

(a) classrooms;

(b) students;

are contemplated for the South Bunbury school next year?

The MINISTER replied:

Before answering this question I would point out that I have interpreted No. (2) on the assumption that the hon. member means what extra classrooms or students are contemplated, and have answered on that basis.

(1) (a) 11.

(b) 552.

(2) (a) Nil.

(b) 560—an increase of eight.

The erection of two rooms at Carey Park school, tenders for which have been called, will relieve South Bunbury.

BUSH FIRES.

Warning to School Children.

Mr. BOVELL asked the Minister for Education:

(1) In view of a number of substantiated published statements that school children had started bush fires during the 1956-57 Christmas school holidays, will he take necessary action to see that school teachers stress to children this year, the grave danger to pastures, crops, livestock and growing timber that arises from indiscriminate fire lighting?

(2) Will he also have the fact stressed that parents who knowingly permit children to be in possession of fire lighting appliances and start fires, could be involved in claims for substantial damages?

The MINISTER replied:

(1) Prevention of bush fires is dealt with as a regular part of the school curriculum.

(2) It is considered this does not come under the aegis of the Education Department.

LANDS.

Application by C. J. Mitchell, etc.

Mr. HEARMAN asked the Minister for Lands:

(1) Is he aware that on the 29th October last, the Minister for Works on behalf of the Minister for Lands, in answer to a question, stated that "C. J. Mitchell for Mitchell Bros. first applied on the 3rd August, 1957," when asked, when did C. J. Mitchell first apply for land at Newlands?

(2) Is he aware that under date the 7th February, 1947, reference 2439/32 over the signature of C. Kavanagh for the Under Secretary for Lands, is a letter acknowledging the application by Mitchell Bros. for land?

(3) Is he aware that under date the 10th March, 1950, over the signature of E. R. Denney for the Under Secretary for Lands is a further letter acknowledging a further application for land by Mitchell Bros.?

(4) Is he aware that there were further letters from the Lands Department in April and August, 1950, concerning the lease of certain land to Mitchell Bros.?

(5) Is he aware that since 1947, Mitchell Bros. have been told that no decision on the alienation of this land can be made until the Conservator of Forests has decided whether the land is to be released or not?

(6) Is he aware that the answer given on his behalf by the Minister for Works on the 29th October last was—"The Conservator of Forests is making further inquiries with a view to submitting his recommendation to the Land Utilisation Committee"?

(7) Can he say how much longer the Conservator of Forests will take to reach a decision?

(8) Can he say how long the Land Utilisation Committee will take to reach a decision on Mitchell Bros. application?

(9) As Minister for Lands and Agriculture, what advice and assistance can be given to Mitchell Bros. to help them in their application?

(10) What is the policy in connection with alienation of small parcels of Crown land for agricultural purposes to adjoining land holders and new applicants?

(11) Is he aware that the reply given to Mitchell Bros. in February, 1947, is substantially similar to the one given on the

floor of the House in October, 1957, namely that the Conservator of Forests has not yet made up his mind in the matter?

(12) Is the Government able to resolve the impasse that seems to have arisen between Mitchell Bros., the Lands Department and the Conservator of Forests?

The MINISTER replied:

(1) Question 1 (a) submitted on the 29th October last read—

> When did Clement John Mitchell of Newlands, on behalf of Mitchell Bros., first apply for land adjoining Mitchell Bros.' property?

As far as could be traced through the records of the department the first letter received from Clement John Mitchell was on the 3rd August, 1957.

(2) Yes. The application dealt with in the letter of the 7th February, 1947 (Reference 2439/32), was written by B. Mitchell and not Clement John Mitchell.

(3) Yes. The inquiry acknowledged by letter dated the 10th March, 1950, was written by "A. B. Mitchell" and not by Clement John Mitchell.

(4) During the past twenty-three years inquiries have been received from members of the Mitchell family relative to various areas of Crown land in the Wellington district and in the vicinity of their freehold land, also in respect of "Timber" Reserve No. 11676.

(5) Mitchell Brothers were advised in 1947 that the Conservator of Forests was opposed to alienation of the vacant Crown land which was then applied for by Mitchell Brothers because such land was carrying marketable timber and was then an existing sawmilling permit.

Since 1947, this particular land has been granted to Mitchell Brothers under annual grazing lease, which is still current.

(6) The question asked on the 29th October, 1957, referred to two parcels of land which had been applied for by Mitchell Brothers and J. C. Sutton, respectively.

The reply that the conservator is making further inquiries with a view to submitting a recommendation to the Land Utilisation Committee is in accordance with advice dated the 3rd September, 1957, which the Conservator of Forests addressed to the Under Secretary for Lands.

The purpose of his submission to the Land Utilisation Committee is to reach a decision as to whether or not any part of the subject land should be permanently dedicated to forests.

(7) Replied to by No. (8).

(8) As early as possible in the new year, the Land Utilisation Committee will be asked to recommend as to whether or not the Crown lands in question, and which adjoin both Mitchell Brothers and Sutton's properties, should be permanently reserved for forestry; held for a further period to enable commercial timber to be cut out, or immediately alienated.

Such land as the committee recommends for alienation will be advertised for selection, and Messrs. Mitchell Brothers and J. C. Sutton will be notified when applications may be lodged.

(9) Any advice that may be given will depend upon the recommendation of the Land Utilisation Committee.

(10) It is usual to restrict applications for small areas, which in themselves would not be of sufficient size to provide an economic unit, to adjoining holders only.

(11) The decision in 1947 was to refuse alienation of the vacant Crown land then applied for by Mitchell Brothers until the marketable timber had been removed.

The decision in 1957 is that the Land Utilisation Committee will be asked to recommend whether or not any of the vacant Crown lands which have been applied for by members of the Mitchell family and by J. C. Sutton should be retained for forestry or alienated.

(12) The recommendation of the Land Utilisation Committee should resolve this matter.

The members of that committee are—

The Surveyor General (Chairman).
The Director of Agriculture.
The Conservator of Forests.
The Commissioner of Soil Conservation.
The Hydraulic Engineer.
The Economics Research Officer.

OCEAN BEACHES.

Formation of Control Trust.

Mr. MARSHALL asked the Minister representing the Minister for Local Government:

In view of the public interest in the importance of developing our ocean beaches, and maintaining and improving the existing facilities available, will he convene a meeting of representatives of the local authorities concerned and the Life Saving Association of Australia, to discuss the formation of a metropolitan beach control trust?

The MINISTER FOR HEALTH replied:

Yes; the Minister is quite prepared to convene a meeting for preliminary discussions on the subject.

GASCOYNE RIVER.

(a) Experimental Clay Bar.

Mr. NORTON asked the Minister for Works:

(1) Have the engineers of the Public Works Department come to any conclusions with respect to the efficiency or otherwise of the clay bar in the Gascoyne River?

(2) Are there any plans for the placing of further clay bars in the Gascoyne River?

The MINISTER replied:

(1) No.

(2) Until definite conclusions have been arrived at regarding the value of the clay bar, it would not be worth while utilising the time of departmental officers in considering the placing of additional clay bars in the Gascoyne River.

(b) Government Geologist's Report on Clay Bar.

Mr. NORTON asked the Minister for Mines:

(1) Has the Government Geologist, Mr. Ellis, furnished a report on the clay barrier in the Gascoyne River?

(2) If so, does he consider it satisfactory?

(3) Has he made any recommendations in respect to the placing of further such bars in the Gascoyne River?

(4) If he has made a report, has such report been forwarded to the Public Works Department?

The MINISTER replied:

(1) A report was made on its physical condition in July last.

(2), (3) and (4) No further investigations have been made by him for the purpose of evaluating the efficiency of the barrier. This aspect of the investigation has been handled by the Public Works Department, Carnarvon.

DRAINAGE.

Belmont-Kewdale Area.

Mr. JAMIESON asked the Minister for Works:

When is it anticipated that work will commence on the initial drainage of Belmont-Kewdale area, as allowed for in this year's Estimates?

The MINISTER replied:

It is considered that March is the most suitable time for this work to be commenced and it is therefore proposed to make a start early in that month.

HOUSING.

East Belmont Grease Traps.

Mr. JAMIESON asked the Minister for Housing:

(1) With respect to the answer given to a question on the 20th November, 1957, would he now supply the location of all State Housing Commission dwellings deemed to have similar grease-traps to those of the East Belmont flats?

(2) Has he seen the Public Health Department's report on the East Belmont grease-traps laid on the Table of this House on the 20th November last?

(3) What is the estimated cost per unit of reintroducing a contract system of grease waste collection from these flats?

(4) What is the estimated cost of implementing suggestion "E" of the Public Health Department inspector's report?

The MINISTER replied:

(1) The hon. member has been informed of the districts in which the commission has installed grease traps. As there are over a thousand of these units and scheduling will be a long and expensive business, it is suggested the hon. member call at the commission office where he will be given particulars of houses with grease traps.

(2) Yes.

(3) The estimated annual cost of grease waste collection would be £7 16s. per unit, which will mean a rent increase of approximately 3s. per week per flat.

(4) Suggestion "E" would cost approximately £20 per unit or £4,640 over the whole project.

WATER SKI-ING ON RIVER.

Control by Harbour and Light Department.

Mr. CROMMELIN asked the Minister for Works:

(1) Has the Harbour and Light Department power to say where water ski-ing may take place on the river?

(2) Has it suggested that the sport should be confined to any particular reaches of the river?

(3) If not, may the sport be carried on at any suitable part of the river, always provided that care is taken to ensure safety of bathers and risk of collision with boats?

The MINISTER replied:

(1) Yes. Under Port of Perth regulations.

(2) No. People interested in water skiing have been permitted to indulge in the sport at any part of the river providing that they conform to the regulations setting out the parts where they must not go or circumstances under which they may not operate.

(3) Answered by No. (2).

BILL—OFFENCES CONCERNING CHILDREN.

Introduced by the Minister for Child Welfare and read a first time.

BILL—WESTERN AUSTRALIAN (EMPLOYMENT-PROMOTION LABELS).

Read a third time and transmitted to the Council.

BILL—PARLIAMENTARY PERMANENT OFFICERS.

Third Reading.

THE PREMIER (Hon. A. R. G. Hawke—Northam) [2.25]: I move—

That the Bill be now read a third time.

MR. ROSS HUTCHINSON (Cottesloe) [2.26]: I wish to indicate briefly that I want to divide the House on the third reading. I feel this is a most unfortunate and deplorable piece of legislation, and I much regret that the Premier saw fit to introduce it. I would like the House to have one more opportunity to throw it out because I feel that is the justice it merits; and I do hope that if we do not throw it out here, another place will—after giving it due consideration, of course.

There is no need for the measure. It is legislating in Utopia. There was no demand for it, and it could destroy the atmosphere that has been, traditionally, one of the best that there could possibly be. I whole-heartedly oppose the third reading.

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

Ayes	24
Noes	20
Majority for	4

Ayes.

Mr. Andrew	Mr. Lapham
Mr. Brady	Mr. Marshall
Mr. Evans	Mr. Moir
Mr. Gaffy	Mr. Nulsen
Mr. Graham	Mr. O'Brien
Mr. Hall	Mr. Potter
Mr. Hawke	Mr. Rhatigan
Mr. Heal	Mr. Sewell
Mr. W. Hegney	Mr. Toms
Mr. Hoar	Mr. Tonkin
Mr. Jamieson	Mr. Norton
Mr. Johnson	*(Teller.)*
Mr. Kelly	

Noes.

Mr. Ackland	Mr. Oldfield
Mr. Bovell	Mr. Owen
Mr. Brand	Mr. Perkins
Mr. Court	Mr. Roberts
Mr. Grayden	Mr. Sleeman
Mr. Hearman	Mr. Thorn
Mr. Hutchinson	Mr. Watts
Mr. Mann	Mr. Wild
Mr. W. Manning	Mr. Crommelin
Sir Ross McLarty	*(Teller.)*
Mr. Nalder	

Pairs.

Ayes.	Noes.
Mr. Lawrence	Mr. Cornell
Mr. May	Mr. I. Manning

Question thus passed.

Bill read a third time and transmitted to the Council.

BILL—MINING ACT AMENDMENT.

Second Reading.

Debate resumed from the 19th November.

MR. WILD (Dale) [2.30]: This Bill amends three sections of the parent Act, and these amendments meet with the approval of the Opposition. Whilst none of us these days likes imposing anything extra on industry, the first amendment will mean that mining companies and prospectors, etc., will be involved in the payment of a small sum. Apparently, however, it will be infinitesimal, but at least a little more in keeping with present-day standards. As the Act now stands a lease can be obtained for the payment of 5s. an acre, and a mineral claim for 2s. 6d. These charges represent a very small sum. They were imposed years ago, since when of course, the value of money has dropped and the proposal in the Bill will bring payments more into line with present day values.

Of recent years the Mines Department—and I suppose the same thing has happened throughout the world—has been spending large sums of money in carrying out geophysical and geological surveys, using the seismograph and many other up-to-date instruments. The money required to carry out a survey these days is very much greater than it was in years gone by. The Mines Department in this State has been taking its share of the responsibility in this regard. A considerable amount of deep drilling has taken place not only in the Collie basin but also in various other parts of the State. This has been done to assist those who are looking for gold, and the lighter metals that are being used these days.

I must be a little critical at this point, but in endeavouring to do some research on the subject I found it difficult to get any up-to-date information. I know this practice has been going on for years, but I would like to know from the Minister why in the name of fortune the Mines Department is always two or three years behind in laying its annual report on the Table of the House. If one endeavours to find out about many of the minerals which are being mined these days, and some of which are quoted in this amending Bill, it is difficult to get any information. The latest report available is for the year 1955; and a lot of water has flowed under the bridge since then, particularly in regard to the lighter minerals that are being used in industry today.

It is intended to fix the charges for leases by regulation. Nobody likes government by regulation and, frankly, I think we do too much of it in Australia. However, it will give the department, or the Government of the day, an opportunity, if a company is successful in its

search, to fix a higher charge, by regulation; or on the other hand, if the Government finds that the remuneration received by the company is not as great as it was thought likely to be, the charges can be lowered.

The second amendment has relation to payment by tributers. This has been brought about by the change in the price of gold in 1954. For the edification of members I shall read Section 122 of the Act which this Bill amends. It reads—

> Every tribute agreement shall contain therein a provision setting out clearly the manner in which the tributers shall pay royalty or tribute to the lessee, and such royalty or tribute may be paid by either one of the following methods:—
>
> (a) by means of a percentage on a sliding scale to be fixed by the agreement on the value in Australian currency of the gold extracted from the ore produced and delivered by the tributers as ruling at a date one month after the ore is delivered for treatment, but so that the sliding scale aforesaid shall vary with the value of the gold in Australian currency.
>
> For the purposes of this paragraph the value of the gold shall be the difference between the gross proceeds from the sale thereof and the charges for treatment and realisation; or
>
> (b) by means of a division in equal shares between the lessee and the tributers of the gold extracted from the ore produced, or of the gross proceeds from the sale of such gold.

It means, in effect, that up to now the tributer has been paid at the price ruling one month after the time he put the ore into the company which was doing the crushing for him. As members know, there was a movement in the price of gold in 1954, and no doubt many of the companies, which were treating the ore on behalf of tributers, were able to collect only the lower price for the gold, whereas, in effect, they had to pay the tributers the higher price. This Bill will amend the Act in such a way that the price paid will be the ruling price paid by the Commonwealth Bank.

The third amendment deals with the question of allowing the Mines Department to grant larger areas for prospecting. Up to now it has been permissible for the Minister, except in exceptional circumstances, to grant only 300 acres. In recent years, and particularly over the last two or three years, large companies have entered the mining field in Australia. There are two or three big companies interested in the North, and I have no doubt that when they come to this country, as they usually do, with a considerable amount of capital, it is not very helpful to them if they are able to receive a grant of only 300 acres. They are involved in large expenses in bringing their machinery here, and if it appears they are going to find the type of mineral for which they are looking, it is not long before others find out about it and peg out claims all around them. As a result these companies find that they are confined to a very small area in which to do their prospecting.

So it is pleasing to see that the Government is prepared to do something for these people because, generally speaking, it is not in keeping with the attitude the Government has adopted over the last session or two. There are one or two nasty pieces of legislation on the statute book; but it is good to see that the Mines Department recognises that it is necessary to bring the large companies to this State because of the demand for these new minerals. It is only the large overseas companies which have the necessary capital to carry out this work, and whilst I would like to be insular, we must remember that these larger overseas companies have the money necessary to carry out this work. Look what happened to oil prospecting in Australia. Nothing much was done until a large company came here from overseas, not with peanuts, but with £30,000,000 or £40,000,000 to spend on the search for oil.

That search has brought great prosperity to this State, and I only hope, speaking on behalf of the Opposition, and I am sure everybody in this Parliament, that their search will be fruitful. As the Minister for Mines will agree, having been to Canada and seen what prosperity it has brought there, if only we could get oil in commercial quantities in this State it would revolutionise Western Australia.

It is interesting to note in the statistician's report the names of some minerals for which a search has been made, in the main by overseas companies. It is also interesting to note that there has been an increase in production as a result of this search. For instance, we hear of minerals like beryl ore. I must confess that as an ordinary man in the street I had no idea what beryl ore was, and I had to look it up in the dictionary. Yet we find that in 1955, 199 tons of beryl ore were produced, and this went up to 310 tons in 1956.

Then again we have felspar, which has gone from 3,565 tons to 3,781 tons. That, incidentally, is a mineral of which we have gained considerable knowledge over the years. Further down the list we find that manganese ore has risen in production from 37,491 tons to 57,323 tons; that tin

has risen from 180 tons to 358 tons, and that the production of tantalite concentrate from 26,348 lb. to 159,655 lb.

That indicates that there are people who are prepared to look for many of these types of ore about which the man in the street knows little. It would be fair to say that we all know about gold, lead, copper and zinc; we also know about tin, but we know very little about ores like bauxite, for which people who have come to Australia are searching. Of course, there is no doubt that the ores are to be found. It is the duty of Parliament, and of any Government, to do everything possible to see that such people are induced to come to this State to assist in the production of its great wealth. There is absolutely no doubt that that wealth is available in this great country of ours.

This measure can do nothing but good, and it will help to attract capital to Western Australia. The third amendment I referred to just now was that which dealt with the question of granting the right of occupying a prospecting area not exceeding 200 acres to these people, and of the Minister having the right to give them further areas if they so required. I notice that in his second reading speech the Minister said that he had been discussing this matter with the mining officials from the Northern Territory, and he mentioned that one company there was given some 7,000 odd acres. If people are prepared to come here and put their money into these ventures, then I believe we should do as much for them as we can, and give them as much land for prospecting as they require.

If they do not play ball, then, of course, the Mines Department would have the right to say "Yea" or "Nay." Quite apart from that, we as a Parliament would have the final say in this matter, because two of the three amendments before us at the moment are subject to the Interpretation Act and, accordingly, anything that is done by the Minister must be laid on the Table of the House for a number of sitting days following the granting of any permits. I support the second reading of the Bill.

THE MINISTER FOR MINES (Hon. L. F. Kelly—Merredin - Yilgarn—in reply) [2.45]: The member for Dale said that people wishing to prospect will be obliged to pay a small royalty. That is not intended. The question of a royalty being levied would not arise unless the particular mineral was being recovered at a very advantageous and profitable rate. Those interested in the search for minerals under the prospecting scheme would not contribute any money, and a levy would not be placed on many of those minerals which at the present time have a low market value and the demand for which is likely to recede. The implications of this Act would not apply to such people, or minerals.

The hon. member said that the annual report of the Mines Department was far behind. It must be remembered, however, that there is a tremendous amount of statistical work to be done, and this can only be compiled after the field work has been completed. Much of that field work is continuous and no results are achieved until the final stages. Accordingly, this makes it very difficult to produce a full annual report from the Mines Department; it is most necessary for the various forms of investigation and examination to be completed, and until this is done, a full report is not possible.

Then again, after the field work has been completed, a period of time must elapse during which an appreciation of that work is being carried out in the geological section within the department. I would point out, however, that in the last five years we have actually improved in this direction, and we have caught up with one year in the issue of this annual report. It would seem, therefore, that we are making some progress.

Speaking on the question of royalty, I would like to say that the method of fixing any royalty would be along similar lines to what I indicated in regard to the first comment made by the member for Dale, namely, that it would be paid only where there was a particular mineral which happened to be on the preferential list—it is only in such cases where a royalty is fixed. But as the hon. member will know, there are some light metals that are easier of recovery and which are becoming very valuable. The outlay in connection with the present-day recovery of these is less than the amount that has been spent on such recovery in the past. It is the intention to carefully examine the position in that regard so that if a reasonable margin is shown, a small royalty could be placed on the particular mineral.

We had the spectacle some time ago where the recovery of manganese for export under permit from the Commonwealth was in the vicinity of 20,000 tons. A fair margin over and above all expenses, and over and above the Australian price was roughly £8 per ton for sending it away. I think the House will agree that on such a transaction there is a very substantial profit, a minute amount of which could with reason come to the Government. The member for Dale indicated that I said that 7,000 odd acres were available in the Northern Territory. The land available was actually 7,500 square miles, not 7,000 acres.

Question put and passed.

Bill read a second time.

In Committee.

Mr. Moir in the Chair; the Minister for Mines in charge of the Bill.

Clauses 1 to 5—agreed to.

Clause 6—Section 277 repealed and re-enacted with amendments:

The MINISTER FOR MINES: I want to advise the Committee that rather than move an amendment at this stage for the deletion of the word "reviewed" in line 18, page 4, and the insertion of the word "renewed" in lieu, I shall arrange for it to be done in another place. This is merely a printer's error.

Clause put and passed.

Title—agreed to.

Bill reported without amendment and the report adopted.

Third Reading.

Bill read a third time and transmitted to the Council.

BILL—WORKERS' COMPENSATION ACT AMENDMENT.

Second Reading.

Debate resumed from the 19th October.

MR. COURT (Nedlands) [2.54]: It usually happens that the Minister for Labour introduces Bills in which I cannot find a single clause on which we are on common ground. I notice in this particular Bill he has obliged because we can reach complete agreement on at least Clause 8, so we are making some progress.

The Minister for Labour: Is that a printer's error?

Mr. COURT: The hon. member guessed it in one. At the outset I want to quote a rather pertinent observation by Mr. Dawson, who is the insurance commissioner in the State Accident Insurance Office, Melbourne. The observation appears on page 419 of the "Australian Insurance and Banking Record." At the end of a very comprehensive paper which he read to the Insurance Institute of Victoria on the 25th July, 1956, he said—

> The present workers' compensation legislation, as interpreted by the courts of law, has now assumed very largely the character of a social service, the heavy ever-increasing cost of which is borne by one section of the community only, that is the employers. Unless the legislature is prepared to limit the liability of the employers to injuries and diseases which have a casual relation with the employment, the cost of claims will, I believe, continue to increase, and the burden on industry may well become such a severe handicap to Victorian employers that they might find that they are at a disadvantage as compared with employers in other Australian States where the availability of compensaiton is more restricted. The only other alternative that I can see to meet the position which may arise would be to absorb compensation to workers into the social service legislation and thereby spread the cost of the benefits over the whole community, as has been done in England.

That forms a basis upon which to consider the workers' compensation problem as it exists in Australia. It is generally accepted that both sides of the House support the principle of workers' compensation. There is only argument as to the degree of benefits and the methods by which claims will arise. That separates the views of the two sides of politics in all Australian States. It has been the accepted system of compensation for very many years in industry in Australia with steadily increasing benefits. The only point at which I differ with Mr. Dawson in his comments is the reference to the fact that the cost is borne by one section of industry alone, namely, the employers, because in point of fact some, if not all, of the cost eventually finds its way back to the general cost structure of industry, and through the general costs of industry to the community.

The Minister for Labour: You agree the employer does not bear the cost.

Mr. COURT: Mr. Dawson made the categorical statement that only one section bore the cost. I say I do not agree because eventually the cost finds its way back into the general cost structure, and therefore some, if not all, of it is absorbed by the community.

Whilst we support the principle of workers' compensation, at the same time we acknowledge the responsibility of Parliament to ensure that, firstly, the law is written with reasonable certainty to determine the liability of employers on the one hand, and the rights of the employee and his dependents on the other; secondly, that the commitments of industry are reasonable and that there is due regard for the point at which workers' compensation benefits merge into the social service structure.

This last point is becoming one of increasing importance because there is a tendency to extend, year after year, the scope of our social service structure in Australia on the Federal level, and to a lesser extent on the State level, because it is predominantly a Commonwealth responsibility. It is one of the duties of Parliament to watch the point of merger of these two systems; that is, the system of workers' compensation on the one hand and the social service structure on the other.

In considering this particular Bill, it is important that we have regard for the fact that this session the Government is asking employers to absorb the cost of long-service leave in private industry in Western Australia. This is a very important matter.

Parliament has taken unto itself the responsibility to legislate for long-service leave in private industry and that legislation is currently before Parliament. Assuming that the Government accepts the legislation in one form or another, that cost has to be anticipated by industry immediately.

In approaching the workers' compensation law of this State, it is important that we endeavour to preserve a degree of stability with that law. It is important to the worker, to the employer, and to the general administration of the law. Every time we change the law we set in motion a whole administrative system that has to be changed to give effect to the new law. We might think that we just do something that is simple and clear cut; but by the time the various parties have had a look at it, and the legal people and the Workers' Compensation Board have had a go at it, complexities arise that we did not anticipate when we passed it.

With this in view, the 1954 select committee and the subsequent amendments to the Act aimed at trying to preserve stability in our law, and the hope was expressed that there would be a minimum of interference with the Act for at least a few years. Concessions were granted for some people in 1956. We wrote some concessions into the Act after a managers' conference between the two Houses. But the main advantage of the 1954 legislation was that a new principle was written into that legislation—the automatic adjustment of the amount payable by way of compensation. I want to stress that point; because, for some reason or other, the Minister never made mention of it in his speech.

The Minister for Labour: We have never indicated that we agreed with the 1954 select committee. That was raised by another place.

Mr. COURT: The Minister surely will concede that out of the 1954 select committee and the negotiations on the legislation, considerable benefits arose.

The Minister for Labour: Not so wonderful.

Mr. COURT: The Minister is not going to deny that the basic wage automatic adjustment was a great advantage to the workers in industry? It meant that no longer did the Minister have to come to Parliament and plead for an adjustment in accordance with money values of the amount of compensation agreed to by Parliament.

The Minister for Labour: We did not necessarily agree to the lump sum put in in 1954.

Mr. COURT: It would not matter what sum was put in—there would still be a difference of opinion.

The Minister for Labour: I know. So long as we understand that!

Mr. COURT: I am not saying that the Minister accepted wholeheartedly and with enthusiasm the amendments of 1954, but I think that in his private deliberations, he would concede a great advance was made, and that the new principle written into the law was sound and desirable.

The significance of that is this: The Minister referred to the upper limits as £2,400. The automatic adjustments have brought that amount to £2,617, which is a considerable increase, without any reference to Parliament; it has been automatic. One big argument that took place in this Chamber was on the fact that the Minister had to come back every time there was a change in the basic wage and in money values and ask that the new level of compensation be fixed at something that would represent the equal of or more than the changes in the basic wage structure.

In my opinion, the Minister did worse than that, because he quoted the proposed increases as being from £2,400 to £3,000 when, in fact—with one exception, which is mentioned in the Bill—the increases are from £2,400—now automatically adjusted to £2,617—to £3,000, which will automatically be adjusted the day the Bill is proclaimed to £3,217. The Bill is drawn that way, with the one exception, and the upper limits are automatically subject to the past basic wage adjustments up to the day of proclamation of the Act as well as in future. That means that the £3,000 is not the top limit that would be fixed if this Bill were passed in its present form.

Another example of the effect of the automatic basic wage adjustment is that the maximum weekly compensation has automatically moved from £12 8s. to £13 10s. I feel that it is my duty to invite the attention of the House to these facts, which are actually written into the law. The situation with this legislation is, in my opinion, that the Act is in a mess.

Mr. Moir: Who is responsible for that? We have a fair idea.

Mr. COURT: If one tries to research this legislation, as it has been my unfortunate duty to have to do, one finds that it is a most difficult process. The Act is not consolidated. It is a mass of bits and pieces; in fact, it is a thing of shreds and patches at the moment, and it is extremely difficult to determine what the amendments seek to achieve, and equally difficult to determine what other amendments have sought to achieve. That will continue to be the situation if we keep on amending the Act year by year, with a nibble here and a nibble there, instead of making a complete review of the law periodically. It follows that if we keep trying to tack a bit on here and a bit on there, we will finish up with something that is just a mess.

The Minister for Labour: The injured worker won't think so if he is not entitled to pay hospital and medical expenses under certain circumstances. That would be clear to him; there would not be any argument about the meaning in that case.

Mr. COURT: That is irrelevant. The point I am trying to explain is that at this present time the legislation on this most important subject—it is probably one of the most used laws in the State—is literally in a mess; and it is, as the legal fraternity say, a thing of shreds and patches. It is time we had a complete review.

Not only is it difficult to read the Act in its present form—and I speak with some feeling on this matter, having spent some weary hours since the Minister introduced the Bill, trying to get on top of the amendments he proposes—but having got the Bill into some reasonable order so that one can follow the series of amendments, one finds them becoming increasingly difficult of legal interpretation.

In view of the lateness of the session—there are only four sitting days left—and this complex measure being sent to the Upper House to be considered, in conjunction with several other complex and contentious measures, it is most desirable that the Government should abandon this attempt of amending the law in bits and pieces and set about using the period between now and next session to make a complete review of the law.

If the Government is sincere in its expressed view that it believes in employer-employee negotiations, here is a chance to try to bring about a rewriting of the law in this State through mutual discussion, and not only reduce it to a mere concise and easily understood form—both so far as the liability of the employer and the rights of the employee are concerned—but also negotiate the extra benefits the Government thinks are just and reasonable for industry in this State to stand.

I am convinced that if the Government is prepared to take that course and get down with representatives of employers and employees to a discussion on several of these contentious workers' compensation issues, we will achieve a much better law and a much more satisfactory and smoother implementation than by continually nibbling at a bit here and a bit there. It is irritating. It starts off party political wrangles, when we are all agreed on the basic principle of workers' compensation in industry.

Mr. Evans: Like long-service leave. You agree with that!

Mr. COURT: Of course, we could raise that subject if the hon. member desires. But I hope that the Government's attitude towards employer-employee negotiations will change in respect of this matter. It looks as though we must put the other one down as an unfortunate incident. But it should not stop the Government and employers' and employees' representatives from trying to get together on this contentious legislation, with a view to removing the contention.

The Government would surely not expect to get every ounce out of industry that it wanted; and likewise the employers should not expect to sit back in the breach and do nothing. They have a duty to co-operate and approach this matter in a responsible manner; and if that were done between sessions, I am certain that we could expect something more sensible than this piece of legislation.

Then we could start afresh and hope that at least at three-yearly or four-yearly intervals, approximating the life of a Parliament, the workers' compensation law could be allowed to settle down, with the interpretations agreed upon, and the law operating smoothly with the minimum of alteration. Probably, with the changes that take place in our economy and in industrial life and conditions, it would be necessary to review the law during the life of every Parliament.

But if we could get down to this basis so that there was just one review every third or fourth year, I think the Government would find it would achieve much more, and that the results will be more harmonious, the understanding better, and the implementation of the law easier. One of the worst things is to have a complicated, involved law which makes it difficult for the employer to determine his liabilities on the one hand, and for the employee to establish his rights on the other hand.

A document of this type should be the simplest possible form of law. These measures start off all right and are fairly easily understood when they come from the legal draftsman, who makes them as clear as he can. But by the time we have had two or three goes at them, they become an absolute hotch-potch. The member for Boulder knows the problems we had at the last managers' conference trying to write into the Act the things we had agreed upon; because one of the greatest problems that confronted us was that we should not produce a schoolboy howler in some of the amendments we wrote in one section by not appreciating the effect on some other section of the Act or on another Act altogether.

I want to facilitate the deliberations on this measure; and if it is satisfactory to the Minister, I propose to state briefly my comments on the detailed provisions of the Bill and then not debate in detail each of the clauses in Committee. I think that would achieve the same result much more quickly and establish my reaction and the reaction of those sitting with me, to this legislation.

In view of the fact that I have indicated that we are opposing this legislation for the reason given and suggest that the Government abandon this last-minute attempt to amend the law with a view to having it rewritten during the recess, it would be frustrating and irritating to the House if I went through each clause during the Committee stage of the Bill. If the Minister would prefer each clause to be debated in detail in Committee, I would be quite prepared to do that.

The Minister for Labour: I am easy. Whatever suits you.

Mr. COURT: I understood the Minister wanted to facilitate the passage of the Bill so that another place could get it as soon as possible. For that reason, if it suits him, I will comment on each of the clauses now and will refrain from doing so in the Committee stage, having registered my general objection to the measure. That will save a lot of time.

The Minister for Labour: You are going to deal with the clauses now?

Mr. COURT: Not as clauses but with the principles stated in each clause. The first point at which we are obviously poles apart from the Minister is the attempt to extend the definition of "worker". The Minister want to bring into the Act some people who have never been covered previously and if he were successful, we could have the absurd position of a person who employs other people being an employee himself within the meaning of the Act and thereby entitled to workers' compensation. It is beyond me why the Minister wants to depart from the principles of our industrial arbitration law. He is endeavouring to extend the definition "worker" firstly, in respect of contractors and, secondly, in respect of people plying for hire, such as taxi-drivers.

I am opposed to that extension of the definition because it is wrong in principle and is undesirable. It would interfere with the established method of conducting industry, where people do not expect to be covered by normal employee coverage when they are themselves employers. If a person wants to be treated as an employee, he should seek employment where he is an employee and not an employer—

The Minister for Labour: Did you make any inquiry as to what is happening in the building industry?

Mr. COURT: Yes, and under this measure a man employing six or eight others could himself be an employee! Surely, being an employer, he should be treated as such. I do not know whether the Minister has had exhaustive legal opinion on that clause, but that would be its effect.

The Minister for Labour: It is taken directly from the Victorian Act.

Mr. COURT: Mr. Dawson, the insurance commissioner in Victoria — the equivalent of the general manager of our State Insurance Office—has a lot to say about this clause as it operates there and he says nothing good about it, because, first of all, it is almost impossible to interpret it with surety and it brought claims that were unexpected when the law was proclaimed and which are outside the normally accepted employer-employee responsibility. If a man wishes to become an employer he should be encouraged to do so and should be treated as such.

Taxi-drivers have been mentioned, but they drive taxis because they want to. There is an established system of taxi-drivers as employees, or contract or ownership, as the case may be. If they want to be employees, they should drive taxis as employees and not as contractors within the meaning of this definition which the Minister seeks to insert. If followed to its obvious conclusion, this clause would mean that we would have one employer over all and then another employer who, for the purposes of the Act, was an employee, and under him up to a dozen men who would be his employees. The Minister would be battling to prove to me that was a desirable or necessary situation.

The Minister for Native Welfare: What about the bricklayer who is encouraged to have a team?

Mr. COURT: Is it not the trade which encourages him?

The Minister for Native Welfare: Yes.

Mr. COURT: But he becomes an employer if he has men under him and this measure would want him to be an employer when dealing with his principal and to be an employee at the same time.

The Minister for Native Welfare: That is the fault of the trade and not of the individual.

Mr. COURT: Those men do not have to work in teams.

The Minister for Native Welfare: They cannot get work otherwise.

Mr. COURT: They may find it easier to get work in that way, but the Government day-labour system does not work on that basis.

The Minister for Native Welfare: The average building contractor will only employ a bricklayer if he has a team.

Mr. COURT: Does he get so much a day or so much per thousand bricks—

The Minister for Native Welfare: Someone must protect him.

Mr. COURT: He does whatever he thinks will bring him in the most money.

The Minister for Native Welfare: Not necessarily.

Mr. COURT: He is a queer person if he does not get as much money as he can.

The Premier: Are not we all queer people?

Mr. COURT: The Premier said it, not I. The next is the journey clause which we have been over so often that I have no intention of repeating everything I have said regarding it.

The Minister for Native Welfare: Don't you represent the employers?

Mr. COURT: I am not speaking for them. I have suggested that the Minister should negotiate these matters with the employers and he might be surprised at the reception he would get.

The Premier: I cannot understand why you are not more proud to be representing the employers.

Mr. COURT: I think the Premier would claim to be representing all the people in Western Australia.

The Premier: Correct.

Mr. COURT: We adopt a similar attitude, so it looks as though the people of this State are well represented.

The Premier: They are very lucky people.

Mr COURT: There is an overriding objection to this journey clause, in that there is a form of liability beyond the control of the employer, and in our law we should have certainty of liability—a liability that is easily determined and clearly understood. But under this clause the sky is the limit and the employer would always live under the threat of something beyond his control. No matter what safety precautions and so on he might install, he still cannot control the worker's habits after he has left the premises, and that is a fundamental objection to the clause. The Minister will say that in all other States except South Australia, the provision already exists. It does, but with what arguments?

The Minister for Labour: You were a great exponent of uniformity the other night. Only the industrially backward State of South Australia has not this provision.

Mr. COURT: Even the Labour States are a long way from uniformity on the wording of this particular provision in their legislation.

The Minister for Labour: But the principle has been accepted.

Mr. COURT: In some ways they have departed seriously from the principle, in the interpretation as to where the liability begins and ends and if ever we get that provision here, it must be clearly defined so that there is no uncertainty as to the source from which claims can arise.

The next clause deals with the increase in the overall liability. The existing limit is £2,400, automatically increased to £2,617 as at this day and the Minister proposes to increase it to £3,000 which, when the legislation was proclaimed, would go to £3,271, because of the way the Bill is drawn. A subsequent clause deals with benefits to workers suffering from permanent total incapacity, and there the Minister or the draftsman has not read the principle of automatic adjustment into the benefits.

When the managers' conference concluded in 1956, it finished with different maximum benefits for a person suffering from permanent total incapacity, as compared with the other maximums. The figure was fixed at £2,750 and that has not been subject to any basic wage adjustment since then and it stands at £2,750 as compared with £2,400 automatically adjusted to £2,617. The Minister proposes to increase that figure to £3,000, which will be a fixed amount at the date of proclamation and not subject to prior basic wage adjustments although all the other top limits in the Bill will be subject to basic wage adjustments up to the date of assent.

For some reason there is a distinction. The managers' conference agreed on the principle of a higher level for a person suffering from permanent total incapacity, but the Minister proposes to put it the other way and the person suffering permanent total incapacity would be pegged at £3000.

Mr. Evans: Would you prefer the other figure—

Mr. COURT: We would rather that the margins were preserved. At £2,750 when the 1956 legislation went on the statute book—

The Minister for Labour: Fixed by whom?

Mr. COURT: By the managers' conference.

The Minister for Labour: No, we tried to write in £3,000.

Mr. COURT: Let us be fair. For an amount to be fixed at a managers' conference the decision must be unanimous as otherwise the Bill is lost.

The Minister for Labour: Yes, but it doesn't say we wanted to agree to that.

Mr. COURT: When we came out of that conference, there was a reason why the figures were separated.

The Minister for Labour: We did not want to accept £2,400.

Mr. COURT: You got a concession!

The Minister for Labour: No, we got £250 less than we wanted.

Mr. COURT: I give up trying to follow the Minister's logic. He gets £2,750 forced on him instead of £2,400 and he is still complaining.

The Minister for Labour: Instead of £3,000! You cannot mislead me that way!

Mr. COURT: We do not want to go over the whole of the deliberations of the managers' conference because it is not permitted. However, it was an interesting conference and a very satisfactory one on usual standards.

The next point I want to touch on is the provision for removing the time limit during which an employee, who leaves an industry, can claim in respect of an industrial disease. For some reason or other, the Minister referred only to silicosis in his remarks and I do not know whether he meant to convey that the amendment would apply only to silicosis because that would not be the case under this amendment. It could produce some anomalies as the Bill stands at the moment. We think that the existing provision for three years is a fair and reasonable time in which a person should make a claim. There must be time limits for the liability. It has always been indicated throughout the ages that there must be a limited time in which one can sue for a debt and in which one can launch a prosecution.

We fix times during which litigation can be instigated by the Crown and others. There must be a time limit to the period during which a person can be subjected to litigation. In this case if the Minister thinks that three years is too short, he should put up an argument for a longer period, but not a limitless period. Under the Minister's proposal, a person can leave an industry and go back to work on his farm for 10 years. He can then develop dermatitis, bursitis, cellulitis and a dozen and one other complaints for which he can claim compensation under the law because he can claim that they were contracted when he was working in an industry. So much could happen in 10 years that it would be unfair to enable him to make a claim for compensation. This refers to a man making a claim for compensation for an industrial disease and the law acknowledges that up to three years a man can so claim on the previous industry in which he had been engaged. We acknowledge that as being fair. We think that in any form of employment that he follows during that three years, any disease or complaints resulting from his previous employment would become evident within that time.

It is interesting to note that in another provision in the Bill the Minister proposes that the total maximum liability for a person claiming for permanent partial disability—not total incapacity—for example, back cases, will receive more on the day of assent, if the Bill becomes law, than the person with a claim for total permanent incapacity. That is completely wrong when one examines the situation. It is unfair and unjust. We consider that the method written into the 1956 legislation was more equitable. Even if we disagree as to the total amount, we think that the principle should be followed.

A further provision which has caused a great deal of debate in this House in the past is the question of ex-nuptial children. We are opposed to the clauses dealing with this matter. Various arguments have been advanced in years gone by on this same question. Some are opposed to it on moral grounds and some are opposed to it on practical grounds. We consider that such a provision should not be written into the law. We must also consider that at present not only are the ex-nuptial children of deceased workers—I should have prefaced my remark when referring to ex-nuptial children by saying ex-nuptial children of deceased workers—not provided for, but at present under the law a de facto wife cannot claim benefits for herself, nor can she claim them for ex-nuptial children. This would produce anomalies and be patently unfair.

Mr. Evans: To whom?

Mr. COURT: To the deceased worker because people can and have claimed that the deceased worker was the father of a child and he has been unable to prove his innocence in the matter because he was dead! It is not so long ago that such a case was negotiated in this State. Admittedly, it was not brought before the courts. This case was that of a boarder in a lodging house and he was no sooner dead than it was claimed by the proprietress of that lodging house—whose habits were fairly well known to certain people—that she was the de facto wife of the deceased and that the children were the children of the deceased. On this occasion, of course, it was readily established that the deceased man was not the father of the child or children. That was established without the case going to law. However, it was patently unfair because the man concerned had no opportunity to defend himself.

Mr. Marshall: What about if the worker lived?

Mr. COURT: We still do not subscribe to the principle.

Mr. Marshall: Would they not be classed as dependants?

Mr. COURT: Under the present law, I would say no for the wife, but yes for the children.

Mr. Moir: What about social service benefits?

Mr. COURT: That is different.

Mr. Evans: Why?

Mr. COURT: Workers' Compensation is a legal liability which is being determined by what will be an Act. The social service

benefits are self-explanatory. They represent social service and society accepts a certain responsibility for ex-nuptial children.

Mr. Moir: They have such a provision in other State Acts.

Mr. COURT: May be, but society as such, has accepted as a social question a certain responsibility for ex-nuptial children of de facto wives and so on, but this is another matter altogether. In this State we have stood fairly against that principle.

Mr. Marshall: It is only on moral grounds that you object.

Mr. COURT: I think that there are more than moral grounds for being opposed to it. There is the question of being fair to the deceased person, as I have already tried to point out.

Mr. Marshall: You are talking about the deceased, but what about his dependants?

Mr. COURT: If people want to do this sort of thing, and they do it of their own free will, it is not for us to make it profitable for them.

Mr. Marshall: It is very unfair to the child, though.

Mr. COURT: Not necessarily. By interjection the hon. member himself has touched on the point of social service benefits. We have two sets of laws; one law dealing with social service benefits and the other dealing with workers' compensation.

Mr. Evans: Why not be uniform in respect of this legislation? You wanted uniformity with the long-service leave measure.

Mr. COURT: I am all for it.

Mr. Evans: Yes, but you want it in reverse.

Mr. COURT: If workers' compensation laws are made uniform, this is one of the things that would be different from the existing legislation in other States, especially for the reason that the hon. member has touched upon, namely, social service benefits, which are expanding year by year in Australia. They are two separate problems; one is a social problem and the other is an industrial problem. If we look after the children who are born in wedlock, I think we are doing the fair thing under workers' compensation law, and the social service law can look after the others.

A further provision which the Minister seeks to remove is the present limit of £100 to cover the cost of medical and funeral expenses of a worker who dies as a result of an injury and who has no dependants. I am not opposed to the Minister putting forward a proposition to lift the amount if he can demonstrate that it is not adequate under present conditions. One of the basic tenets which we should follow in writing a law of this kind is to make it reasonably possible for a person to determine his maximum commitments. If we stipulate what these limits are to be, it is possible for a person to determine what his commitments will be. This is one of the provisions whereby the Minister wants to lift the limit. Also, there are two others wherein the Minister is desirous of lifting the limit and if this were done, it could have very bad results.

The next provision wherein he wants to lift the limit is in connection with medical expenses. To determine this we have the same problem of undefined liability. It would be very nice for members of the medical profession and all concerned if there were no limits on these aspects. There must be some limit and some definition of the amount involved. There is the point at which the workers' compensation law ceases and the social service law takes over, and one of our duties is to determine the marginal line. I think we have tried to go a little over the border in many instances so there is no bad break between the two systems. It would be patently wrong if we legislated on the basis which took away claims which rightly came under social service commitments, both of the State and of the Commonwealth, and force them on to industry in a particular State.

Likewise, the Minister proposes that we lift the limit relating to hospital expenses. The insurance commissioner of Victoria—he is the equivalent of our manager of the State Government Insurance Office—is very strong on this point. He has spoken in the strongest language about how this item has aggravated the claims on industry through workers' compensation. I think it is one thing that we should not legislate for at the moment.

The Minister for the Labour: Does the blame lie at anyone's door?

Mr. COURT: Without saying it, he virtually lays the blame at the door of Parliament for not fixing a limit because of the inability of industry to carry the increased responsibility.

We could consider, with some justification, an increase in the limit if the Minister can cite a case to demonstrate that the limit is too low; but whatever we do, let us keep a limit. I am not suggesting a figure and I am not suggesting that a higher limit is even necessary, but if the Minister feels, on the records of the workers' compensation board and of others —and there are plenty of statistics relating to workers' compensation today that we did not have 10 years ago—then we could consider that proposition on the merits of the case. There are three items regarding which the Minister wishes to lift the limit, namely, medical, hospital and funeral expenses. It is necessary that these limits should be defined so that industry will know its commitments.

Sitting suspended from 3.45 to 4.2 p.m.

Mr. COURT: I was dealing with the various points in the Bill and trying to cover them in order of the clauses so as to save time during the Committee stage. Some of the subclauses to the clause I was commenting on are consequential and the principle is somewhat the same where the Minister has tried to lift the limits altogether on these expenses. The point I emphasise is that whilst there may be a case to be submitted by the Minister for increasing the limits, there is certainly no real case, that I can see, for lifting them altogether. The question of the certainty of liability is the most important one to legislate for. This should be one of the major considerations if the Government embarks on a scheme for redrafting the Act, and reviewing the legislation in consultation with the employers and the employees, with a view to bringing down simplified legislation.

On the next clause I will not comment because the printer must have disliked it and decided to defeat it before it reached the House. I now wish to touch on the clause which seeks to amend the First Schedule and deal with the redemption of weekly compensation demands by means of a lump sum. The paragraph that deals with this matter in particular is being amended in regard to permanent and total disability. The effect would be to increase the amount from £2,750, agreed to in 1956, to £3,000. Here again the Government has seen fit to discriminate because this amount would not be subject to the automatic adjustments up to the date of the assent of the Bill, as is the case with the other higher limits that are suggested.

The Minister for Labour: You can move an amendment on those lines.

Mr. COURT: I have no intention of moving any amendments. As I indicated earlier, it is my desire to facilitate the Committee stage by what I am saying now. The next provision is the one dealing with the Second Schedule and relates to maims. The Government appears to have introduced a fairly uniform percentage increase into this schedule, but in our opinion it is an unscientific approach. Hon. J. G. Hislop put forward a proposition in 1954 for a more scientific approach to the schedule. His recommendation was that it should be examined to see whether a more equitable schedule of claims could be included. But the Government apparently has not adopted that principle because as far as I can see, the items in the schedule have simply been adjusted by a fairly automatic margin—approximately 25 per cent.—without any attempt to be more scientific in regard to the relative merits of the claims set out in the schedule.

The last point on which I wish to touch is that dealing with the definition of "occupational deafness" which has been incorporated into the schedule. The amendment, as drawn, does not specify any degree or intensity of noise and, as most occupations are subject to intermittent noise, it can only mean that the employer will be liable for almost every worker whose hearing degenerates. It would be difficult to find an employee who could not complain that at some stage in his working life he was subjected to intermittent noise. No attempt is made to assess the level or nature of the noise, and an employer could easily find himself subject to a claim, as I understand the amendment, from any employee who suffered a deterioration in his hearing during his working life, or if he claimed that the deterioration was as a result of his working life.

Mr. Lawrence: Could that be the employer's voice?

Mr. COURT: The way the amendment is drawn, the hon. member's interjection is pertinent, because it could be claimed to be an intermittent noise. No attempt is made to define the noise, or the intensity or nature of it. But I cannot imagine that a claim would seriously be persisted in if the only complaint was the raspy nature or the loudness of the employer's voice.

I have endeavoured to cover the Bill fairly exhaustively from our point of view with the object of saving time at a later stage. For the reasons I have stated, I oppose the measure.

MR. MOIR (Boulder) [4.8]: I think I should comment on some of the remarks of the Deputy Leader of the Opposition in regard to social service and its relation to compensation. I cannot see that social service should have any relation with workers' compensation. It is entirely distinct and apart from it.

Mr. Court: There must be a point at which they meet.

Mr. MOIR: I cannot see that there should be any point where they meet, for the simple reason that one is a liability of the employer, and the other, social service, is given to ameliorate conditions entirely non-industrially caused.

Mr. Court: Didn't you, a couple of years ago, put forward a proposition that the desirable thing would be for the whole of workers' compensation to be incorporated in social service legislation?

Mr. MOIR: I am absolutely astounded that the Deputy Leader of the Opposition should think that I was guilty of ever putting such a proposition forward, because I would be entirely opposed to it. I have heard it put forward by members on the other side of the Chamber, but not by members on this side. It is a straight-out proposition to shelve the liability of the employer, and put the onus on the taxpayer.

The liabilities of the employer are covered when he takes out an insurance policy. I feel that is something which is in the

best interests of the workers in industry because we find that while some employers do everything possible to avoid accident, there are others who think that as they are covered by insurance, it does not matter. We have to employ inspectors under various Acts of Parliament to see that safety precautions are enforced throughout industry.

I feel there is too much carelessness in regard to safety in industry. I know that many employers stress the importance of safety in industry and the necessity to mitigate accidents, but there are not enough of them. A great many employers pay only lip service to this desirable feature. If as has been suggested from the other side of the House, an amalgamation between workers' compensation and social service came about, I feel that the accident rate would rise because all responsibility would then be lifted from the employer in regard to ensuring that reasonable safety precautions were taken in his establishment.

Mr. Court: I did not advocate the social service proposition today. I was only mentioning the point at which they merge.

Mr. MOIR: I have heard the hon. member advocate it at other times.

Mr. Court: You cannot divorce the two.

Mr. MOIR: It is not the first time we have spoken on this measure in the House.

Mr. Court: There must be a point at which the two meet.

Mr. MOIR: I cannot see that there is any point where they meet. I cannot see that there is any likeness between the two, but I know it is the desire of the people that the hon. member represents to shelve their responsibility and have it come under social service.

Mr. Court: That is not so.

Mr. MOIR: That has been enunciated here; that workers' compensation should come under social service.

Mr. Court: I cannot recall anyone on this side, but I can on the other, saying it would be better to be completely covered by social service.

Mr. MOIR: The hon. member has not heard anyone during my term, or his, in Parliament say that on this side. The desire of the employer to shelve his responsibility is also to be discerned in the hon. member's remarks when he mentions long-service leave; that workers will receive benefits from long-service leave. It is remarkable that, whenever the worker gains or looks like gaining something, proposals are immediately put forward to try to ensure that whatever he is to gain should be offset by something else. Mention was made of the state the Workers' Compensation Act is in. I quite agree that it has got into a terrible condition and that it is difficult to follow. Members on the opposite side of the Chamber bear the responsibility for that.

Mr. Court: No.

Mr. MOIR: They must bear the responsibility because every time a measure is brought here, they attempt to chisel something out of it, and they often succeed with the result that we do not get a uniform and smooth-flowing Act, but one that is a hotchpotch. The hon. member knows that perfectly well. Amateurs have tried to put into legal phraseology the provisions they want, or believe should be, included in the Act, and the result has been that measures drawn by legal men, and brought to this Chamber, have been altered to such an extent that the Act has become quite complex. The alterations that have been suggested have had to be accepted in order to achieve any gain for the injured workers. I venture to suggest that if this Government were to bring down a model compensation Act, as suggested by the hon. member, by the time it had been passed by this Chamber and another place, the people who drew it up would not know it.

The Deputy Leader of the Opposition mentioned the fact that we are continually bringing down Bills to amend the Workers' Compensation Act. That is brought about by the fact that our workers' compensation legislation is so far behind the Acts of the other States. We are so far behind that we have to keep bringing forward legislation to try to get somewhere near justice for the injured workers of this State. The hon. member's attitude in regard to compensation is at variance with his attitude on a recent Bill which was discussed in this Chamber. On that occasion he was very busy quoting what was laid down as the Commonwealth basis. But when we have an Act that we want to bring into line with what is general practice throughout the Commonwealth, he is not in agreement with it.

Mention has been made of the provision in the Bill which will cover workers going to and coming from their place of employment. This provision has been introduced every year since this Government has been in office; and it was introduced when the Opposition parties were in Government. On that occasion it passed this Chamber only to be rejected by another place. I can only suggest that in between the time of its passing this Chamber, and its being discussed in another place, somebody outside the House became alarmed to see that the Government of the day had brought it forward, and certain action was taken to see that it was rejected by people of the very same party who had sponsored the Bill in this Chamber. Those members were instrumental in defeating that provision in another place.

Mr. Court: They were justifying their title as a House of review if they rejected legislation introduced by their own party.

Mr. MOIR: That idea is completely outmoded. I think it was blown right out on the day that an hon. gentleman in another place took payment as Leader of the Opposition. That showed quite plainly that it was a party House, and certainly not a House of review.

The Minister for Labour: It has always been a party House.

Mr. MOIR: One provision in the Bill, which is of great interest to the industry with which I am concerned—the mining industry—is that for lifting the three-year limitation on claims. The Deputy Leader of the Opposition did not seem to be in favour of it at all; but it is a very necessary provision in order to give justice to people in that industry. We have the position where people can leave the industry not knowing that they are affected by silicosis, yet, after three years, discover that they have it. Despite the fact that regular examinations are made of workers in the industry, there are men who do not show any signs of being affected by silicosis—or not sufficient signs to be compensated—and yet some years afterwards their health can be very badly impaired. I am having a particularly hard job at the moment to compete with the conversation that is going on in the House.

In the past a man who had left the industry and found himself affected by silicosis, even though it was more than three years since he left the industry, could return and, after being found to be affected by silicosis could leave and be compensated. Now the attitude is adopted that a man forfeits his claim to be compensated for this disability if he has been out of the industry for more than three years. Even if he returns and remains in the industry for one year it is said, "You did not get that disability in the year that you worked in the industry and you cannot be compensated for it." To me that is most unfair; the man received the disability because of his work in the industry. A person can only get silicosis from working in the mining industry, and it is most unfair if he cannot be compensated for it.

Mr. Court: Do you want the amendment to apply only to silicosis?

Mr. MOIR: As I read the amendment that is all that it would apply to.

Mr. Court: No. It will apply to all industrial diseases. That is where the complication arises.

Mr. MOIR: There would be nothing unfair about that.

Mr. Court: It would be impossible to work it out.

Mr. MOIR: If an employee contracts a disease in an industry, industry should be responsible for it.

Mr. Court: But let us say that a man has worked for himself in a business for ten years and then gets t.b., bursitis or something like that.

Mr. MOIR: He would not get compensated for t.b. under the Workers' Compensation Act.

Mr. Court: But say he got bursitis or some other industrial disease.

Mr. MOIR: He would have to prove where he got it.

Mr. Court: Obviously, he would claim he got it in the industry in which he had been working.

Mr. MOIR: He would have to prove that, as he does now.

Mr. Court: If this amendment is passed he will just claim that he is entitled to compensation because of his participation in that particular industry. He could have had dermatitis when he was in the industry, been cured and then got it again in some other walk of life.

Mr. MOIR: I do not think that would be hard to work out. A man would have to prove that he was working in an industry where he could contract that sort of disease. It would be difficult to establish that he got dermatitis through working in an industry 10 years ago because dermatitis is something that shows up very quickly.

Mr. Court: But he might have got dermatitis while in the industry, been cured, and then entered another walk of life, got dermatitis again and blame the previous employer.

Mr. MOIR: The point is: How did the dermatitis commence? If he can prove that he got the dermatitis through working in an industry, he can claim compensation now. Once having done that he has established his claim to compensation, and if he gets dermatitis later on, he is compensated.

Mr. Court: But at the moment there is the three-year limit.

Mr. MOIR: The three-year limit would not apply in that case because he had established his claim—he would already have established the claim within the time limit.

Mr. Court: He might have had one claim and then been cured.

Mr. MOIR: But he establishes his claim. That applies to a lot of other diseases, and that is why I say an injustice is being done in regard to silicosis in the mining industry. A man might not be able to establish his claim within the time because the disease is not medically apparent. The hon. member must understand that there is an indeterminate stage with silicosis where the lungs alter and he cannot be certified as having silicosis. Silicosis is a

progressive disease, and it can develop over five or 10 years or even longer after a man has left the industry. But now, because of the three-year-limiting period, he cannot claim compensation for that disability.

Mr. Court: Say I worked on the Kalgoorlie goldfields; I left and worked in gold mines in Canada and Queensland and then I came back to Western Australia and got silicosis.

Mr. MOIR: That position is covered. A man cannot work in this State, go to the other States and work in the industry, and then come back here and claim that he got the disease in this State.

Mr. Court: But the employer would not be protected under this amendment.

Mr. MOIR: I think he would be.

Mr. Court: I do not think so. The hon. ought to read the amendment into the Act.

Mr. MOIR: I think the employer would be covered because it would be known where the man had worked. I do not think it would be a difficult matter and, in any case, the other States do not find it a bar. There is no time limit in the Victorian Act or in the New South Wales Act; and Queensland has very comprehensive legislation covering that point. I do not think the arguments advanced by the member for Nedlands are sufficiently serious to warrant the provision not being agreed to. I support the second reading of the Bill.

MR. MARSHALL (Wembley Beaches) [4.26]: Once again we have before us a Bill to amend the Workers' Compensation Act, and one of the objections the member for Nedlands said he had to it was that he felt it was nearly time employers and employees got together to consolidate the workers' compensation legislation. That has been tried over a number of years, and, in any case, even if the employers and employees agreed to a comprehensive scheme of workers' compensation, in accordance with needs, it would still be necessary to amend the Act from time to time in accordance with the changing conditions in industry.

Mr. Court: But not every year.

Mr. MARSHALL: It is possible that a comprehensive scheme could be agreed to this year and a few months later, because of some new type of industry starting up, and in which conditions were different to any other industry in this State, it would be found necessary to alter the Act. This is the type of legislation that has to be amended from time to time to meet changing circumstances.

Usually, when discussing measures such as this, the Deputy Leader of the Opposition pleads the cause of industry, and says that it is not possible for industry to meet the extra demands being made upon it. He did so on this occasion. That gives the impression that the only people who do pay the cost of workers' compensation are the employers. But nobody is fooled by that statement because costs of industry are usually channelled back to the general public. Nowadays people generally recognise that where workers in industry meet with accidents, there is some justification for the costs being borne by the general public. It is of no use saying that employers are the only people who bear the cost of workers' compensation. It is obvious that they have to channel the costs back to the public.

Mr. W. A. Manning: To whom would the export of primary industries be channelled?

Mr. MARSHALL: They get the benefit of the general cost structure throughout the State.

Mr. Ackland: But where do they export it?

Mr. MARSHALL: If they are producing in this country, they must be getting some benefit so that they can channel it back.

Mr. Perkins: You cannot channel it back to the Japanese or the Germans.

Mr. MARSHALL: That is another story.

Mr. W. A. Manning: But a very important one.

Mr. MARSHALL: At the moment we are dealing with the question of workers' compensation, and I think it is generally recognised that there is a steady trend towards improving the general conditions and wages of employees in industry, and, as a consequence, from time to time the liability of the Workers' Compensation Act for those unfortunate enough to come within its provisions has to be raised accordingly.

I think it is along those lines that we must view such legislation as this. We must make a humanitarian approach to an Act of this kind because it deals with people who are unfortunate enough to meet with accidents, or suffer death as a result of misadventure, and this creates most difficult situations because of their lack of earning power while they are off work or have been unfortunate enough to be killed.

There was a case recently of a young man of 31 years of age who was struck down during the course of his employment. He had six children, the eldest of whom was 11 years of age. The maximum compensation was payable to that widow but her weekly income was seriously reduced. By the time the eldest child started work, the whole of the compensation payments would have been exhausted.

Accordingly there are a number of anomalies and difficult situations created which we should take into account when

dealing with matters of this kind. Those are the types of cases to which some special consideration should be given and surely the Deputy Leader of the Opposition would not suggest that the Social Services Department should be responsible for cases of that description. Unfortunately, of course, under the provisions of the Act that widow can receive only the maximum amount of payment and, as I say, even before the eldest child starts work the total payment will be cut out. You would be familiar, Mr. Speaker, with the item contained in Clause 11 of this Bill which relates to occupational difficulties because, for many years, you, Sir, have worked in the avocation of boiler making, and you would know the considerable number of disabilities that those types of employees suffer.

For many years we have endeavoured to make provision in the Workers' Compensation Act for this peculiar disability—and it is a disability as you so well know—which occurs amongst this type of worker in the industry to which I have referred. Accordingly, I feel that we should at least pay some attention to the provisions contained in the Bill, and I sincerely hope it will be agreed to, and that the workers who are suffering those disabilities will at least be able to receive some of the compensation which they so well and truly deserve. There are, of course, other provisions in the Bill, but like the Deputy Leader of the Opposition I do not propose to speak at very great length. I support the second reading of the Bill and hope it will be passed.

HON. A. F. WATTS (Stirling) [4.35]: This Bill is one which raises two or three problems that are of considerable interest to me. My chief regret in regard to it is that it has been introduced into this House so late in the session, because I should very much have liked to have had an opportunity of obtaining advice on one or two of the matters in it, in order that I might have perhaps been able to express an opinion somewhat better than I can at the present time.

I have always understood that the law of workers' compensation in this country distinguished between contracts of service and service contracts. When I say that I would point out that I define a contract of service as meaning one which establishes relationship between employer and employee, between the two persons, and which implies—or indeed ensures—that the one party shall be responsible for carrying out the instructions of the other; whereas the second proposition involves such things as the services of persons doing fencing contracts and the like who are able, having agreed to do the work for a specified sum, to carry it out in their own way and in their own time subject to some limitations, perhaps, on its completion, but without any control or employer supervision being exercised over them.

The provision in this Bill, to which the Deputy Leader of the Opposition made some reference, appears to me to be liable completely to change that state of affairs, and therefore it places before me—and particularly before those people who are interested in agricultural pursuits—a very considerable problem. As to the accuracy of my interpretation of it, I can give no guarantee, and, as I have said, I have had no time to obtain a better opinion than my own, but so far as I can ascertain at this juncture, if the new principle proposed in the amended Section 5 of the principal Act is to be adopted in this Bill, then it will undoubtedly change the liability of persons having work done on the basis I have outlined, and render them liable, I would suggest, in almost every case for workers' compensation insurance and the resultant premium obligations attached thereto.

To bring forward such a fundamental change in the law as that—at the stage of the parliamentary session that this is brought forward—and to expect me without adequate opportunities for consultation—which I certainly have not had—to subscribe to it is asking just too much of me. I think it has been quite clear to everybody that members on this side of the House have not been unwilling from time to time to give favourable and careful consideration to proposals for the increase of benefits to workers that they feel justified, and which they believe industry in general could undertake without imposing unreasonable difficulties on those engaged in carrying on those industries.

I recall, for example, that in 1948 I introduced a Bill myself into this House on behalf of the then Government which made very considerable changes in, and greatly increased, the benefits allowed in, the Workers' Compensation Act of that time. I would point out that in February, 1948, the basic wage in this State was £5 3s. 11d., and that at the present time for the metropolitan district, it is £13 7s. So there has been an increase of something in the vicinity of 160 per cent. in the basic wage of that time. Up to February, 1947—at which stage the basic wage was, as I said, £5 3s. 11d.—the maximum compensation payable to a worker had been £750.

The Bill that was introduced by me in 1948 increased that to £1,250 and if we take that £1,250 as being a reasonable figure in 1948, at which time the basic wage was approaching £6 a week, we will find that the present figure of £2,750, which is in the existing law, is almost absolutely in direct proportion to the increase in the basic wage in that period. No change had been made in the maximum compensation for some considerable time prior to 1948.

It had stood at £750 for a considerable period but, partly as a result of the Royal Commission, and partly as a result of a desire on the part of the then Government to bring the statute up to the conditions which prevailed in other parts of Australia at the time, legislation was introduced increasing the amount to £1,250; increasing payments to dependent widows to £1,000, plus £25 for each child. The weekly proportion for earnings payable was increased from 50 per cent. of the average weekly earning to 66 2-3rds per cent.; with £1 a week extra for a dependent wife and 10s. for dependent children.

Other improvements were that the definition of worker was altered to increase the maximum wage at which a person could be defined as a worker from the figure of £500 at the time to the new figure of £750. Compensation was to be payable in respect of injuries received when the worker was travelling outside Western Australia in the course of his employment, which, previous to that time, had not been payable because the Act alleged to have no jurisdiction outside this State. Allowance was also to be made for an attendant in the case where the injury involved paralysis.

At the same time the Workers' Compensation Board and the premiums committee were set up, all designed to improve the administration on the one hand, and the benefits to be conferred on the workers on the other. The premiums committee was, of course, set up with the object of ensuring, as well as any person could ensure by such means, that industry was not to be charged any more than was absolutely necessary as premiums in regard to insurance. As a result of that set-up, for some considerable time, although the benefits were substantially increased, premiums on workers' compensation were not increased.

The second improvement in the workers' compensation law which took place in 1950 achieved the same result, because it was established by the premiums committee that the loss ratio could be changed without disadvantage to the insurers, and with advantage to industry. I mention those matters merely to show that those who were not inimical in the slightest to any propositions that were soundly based, have had plenty of time for consideration to establish in their own minds the effect on the industries which concern them, and in some cases those with which they were actually personally connected. But they are—at least, I am—unwilling to regard favourably a measure which introduces new principles, one in particular to which I have made specific reference.

The actual answer as a result of this Bill if it becomes law, I am unable to give, but I have a decided opinion that it could very seriously and considerably affect the operations of persons, not only those engaged in agriculture but also those engaged in other walks of life, because the phraseology of the proposed alteration to Section 5 is such that I feel its effects may be almost unlimited in regard to persons who are not actually working under contracts of service, which I have already defined as the relationship between employer and employee, in the capacity of the former giving instructions to the latter.

At the present time my view of the measure is this: If we had a fortnight or three weeks to consider it, I might be able to bring myself to a state of mind where I could support it, with or without amendment; but at the present time it seems to me to hold two or three imponderables—two or three questions to which I want a satisfactory answer. In those circumstances, I beg of the Minister at this stage of the session not to press the matter. If, however, he intends to press the matter to the passage of the Bill, I shall have no option but to vote against it.

THE MINISTER FOR LABOUR (Hon. W. Hegney—Mt. Hawthorn—in reply) [4.48]: I propose to make a few observations on the matters raised during this debate. Firstly, I shall deal with the points mentioned by the Leader of the Country Party. He gave us a resume of events since 1948. We know that as a result of the Royal Commission which was appointed, substantial improvements were effected to this law.

It might be of interest to note that prior to that amendment, the National Security Regulations had been in operation for a long time; wages had been pegged from the end of 1939 till 1946, and the basic wage was practically static during the whole of that period. It is true that the maximum amount was increased from £750 to £1,250. That was 10 years ago. It is not suggested that we should not bring about improvements in the standard of compensation under this legislation.

The Leader of the Country Party also said that he required a fortnight to consider the proposals in the Bill, and that if that time was available, he might be inclined to support some of the proposals. On previous occasions when I introduced similar measures, they were introduced comparatively early in the session. Those measures were transmitted to another place but invariably finality was reached in the form of a conference on the day that Parliament prorogued.

Mr. Court: Your Government controls the notice paper in the Council.

The MINISTER FOR LABOUR: While it may be said that the Government controls the notice paper there, if an adjournment of the debate is sought and voting is along party lines, it can be adjourned. Mention was made about a House of review

I cannot be dragged into the belief that the other place is or ever was a House of review.

Mr. Court: The Minister in the other House draws up the notice paper.

The MINISTER FOR LABOUR: I shall not waste time on this point, but suffice to say that the Minister draws up the notice paper which is subject to alteration almost without notice if there is a move along party lines. I contend that invariably measures similar to this were finalised on the last day of the session.

The Leader of the Country Party expressed concern over the effect of the Bill in its relationship to the definition of "worker." This very provision, word for word, contained in the Bill was taken from the Victorian Workers' Compensation Act, and the provision was recommended to me for adoption by the chairman of the Workers' Compensation Board.

Let me deal with the concern of the Leader of the Country Party for the people whom he termed as fencing contractors. He knows as well, if not better than I, that a fencing contractor working on a farm or station is an independent contractor. He quotes a price per mile or chain of fencing. As long as he erects that fencing in accordance with the terms of the contract, he can please himself whether he works 20 or two hours a day. He is subject to no further direction.

Mr. Court: He would be an employee under your amendment.

Hon. A. F. Watts: He would be defined as an employee, or else I am a Dutchman.

The MINISTER FOR LABOUR: The hon. member is not a Dutchman. If he were to examine the clause he will see that it is not aimed at fencing contractors.

Hon. A. F. Watts: That was only an example I gave.

The MINISTER FOR LABOUR: That provision was taken from the Victorian Act. It was also recommended by the chairman of the Workers' Compensation Board for adoption as a result of a practice which has grown up in the building industry. I shall not read the whole of the statement of the chairman of that board. It is sufficient to say that the present trend is for some building contractors to engage tradesmen, not at the award rates of pay, but by requiring them to sign a form of contract, thereby escaping the obligation to pay payroll tax.

To all intents and purposes these workers are employees, and they are subject to a certain amount of supervision. In the process of his work, such an alleged contractor may find it necessary to engage one or two workers to assist him. That is the reason why the clause provides that whether or not the subcontractor engages labour, he is covered by the definition. Nominally he is the employer, but in actual fact he is an employee.

Mr. Ackland: He is making 300 to 400 per cent. more than wages.

The MINISTER FOR LABOUR: All that the Government desires is to protect those workers in regard to compensation. The Leader of the Country Party had an entirely different approach to this question from the approach of the Deputy Leader of the Liberal Party. The latter knows that my remarks are at no time personal. I can assure him of that. He is speaking for his party and for those whom he represents. The Government deliberately selected some six items in this Bill with a view to placing them on the statute book. Let us see what was the attitude of the Liberal Opposition to each and every of the clauses. There was veiled opposition. Not one clause received the approbation, commendation, or support of the Liberal Party.

In regard to the journeying clause, as the member for Boulder and the chairman of the Workers' Compensation Board mentioned, when the Liberal Party was in office it introduced that provision into the Act. No member opposite can deny that. It was included in the measure introduced by the then Attorney General, Mr. Abbott. Why then did the Liberal Party adopt a reasonable approach on that occasion, and now adopt an attitude of hostility?

We could also examine the history of the provision covering the payment of medical and hospital expenses. Flowery statements have been made by the Deputy Leader of the Opposition to indicate that these expenses should merge with social service benefits. I say without qualification that workers who are injured in the course of their employment should be provided with medical and hospital expenses in full. That should be a definite charge against industry. If the Bill were examined closely, it would be found that whereas at present the limit is £100 for medical expenses and £150 for hospital expenses, it is proposed to remove the obligation from the employee to pay any of such expenses.

Mr. Court: In practice that does not mean a thing.

The MINISTER FOR LABOUR: In practice it means that whereas now the workers are liable for large sums of money to meet medical and hospital expenses, they will be absolved from that obligation if this Bill is passed. This provision is already in operation in Victoria.

Mr. Court: And under great protest.

The MINISTER FOR LABOUR: The Deputy Leader of the Opposition has quoted an address by the manager of the insurance office in Victoria.

Mr. Court: The manager of the State Insurance Office.

The MINISTER FOR LABOUR: In not one instance throughout the whole Bill did the Liberal Party spokesman declare that this or that provision was a desirable amendment; that this or that provision should be examined. To each and every one the approach of the Opposition was negative and hostile, in an effort to stave off any improvement whatsoever. I sense from the remarks of the Deputy Leader of the Opposition that the fate of this Bill has been sewn up already and that it is planned to reject it in another place.

Mr. Court: What makes you think that?

The MINISTER FOR LABOUR: The hon. member is the Deputy Leader of the Liberal Party. I might be wrong but something tells me that the fate of this Bill is already sewn up.

Mr. Court: I think you are just guessing.

The MINISTER FOR LABOUR: I am surmising. I am forecasting.

Mr. Court: They take about as much notice of me as you do.

The MINISTER FOR LABOUR: Don't worry about that! I would make reference to one other matter in this measure—that of compensation for boilermakers' deafness. This is the first time that such a provision has found its way into a Bill. There are cases, however, where men, through working in certain industries—and especially boilermakers—are subject to disabilities of this kind over a period and should be entitled to compensation. In every instance, however, the applicant would be required to produce medical evidence to prove that the disability was caused through his occupation.

Mr. Court: I think Mr. Speaker would have an easy claim to prove, wouldn't he?

The MINISTER FOR LABOUR: He is not a worker within the meaning of the Act, so he would not come under it now. The Deputy Leader of the Opposition has expressed the view that the Act is in a mess. There is room for tidying it up and for a review of the drafting. When one comes to examine the position, it will be found that what has occurred has been unavoidable. I have been on five or six conferences on similar measures, when the matter has been finalised on the last day of the session by managers working against time. Those men have been only laymen and have been obliged to call in a representative of the Crown Law Department—one of the draftsmen, who is a member of the legal profession.

It has been most unfair and unreasonable to expect the representatives of the Crown Law Department to adequately and clearly express in legal language what the conference agreed to, because these men are working under such pressure. That is why there are a number of sections of the Act and some of the schedules on which there is a difference of opinion concerning the meaning.

This is no new legislation. The matters that have been submitted to the House have been debated year in and year out, and there would be nothing to prevent this House and another place from making a reasonable approach to the half a dozen principles in this Bill and arriving at a decision on them. Knowing the legislative programme, we have on this occasion deliberately selected some of the more important items we considered should be debated by Parliament and decided upon.

Whether the Bill is passed or not, it is my intention—and I have discussed this with the chairman of the Workers' Compensation Board—between now and next session to try to tidy up the Act; and I can promise that there will be certain other desirable amendments suggested. On this occasion there are three or four clauses which we think vital, and they should not be lightly disposed of by this House or another place.

Mr. Court: Are you going to make any approach to secure consultations between employers and employees in the matter?

The MINISTER FOR LABOUR: Without committing myself, my reaction would be that the Workers' Compensation Board is the statutory body set up under the Act to consider such matters. The chairman is an independent person, and there are representatives of the employers and the trade union movement. The chairman is a member of the legal profession, and I believe consultations could take place between the board, the insurers and the trade union movement with a view to recommendations being made to the Government.

Mr. Court: With respect, I suggest that the board is the last body that would want to be adviser to the Government on principles. It only interprets the law. You need union secretaries and employers' representatives who understand the application of this Act to industry.

The MINISTER FOR LABOUR: The chairman has been in that position since the inception. He has been chairman for eight or nine years. It surely would not be suggested that he has not acquired a wide and diversified knowledge of the law!

Mr. Court: But there is more to it than law.

The MINISTER FOR LABOUR: In addition, he has an appreciation of the needs of industry. There would be nothing to prevent his obtaining from interested parties their views on these matters and making recommendations in the light of the evidence submitted.

I have mentioned my intention in order to indicate that the Government is alive —as it always is in regard to other matters

—to the necessity for clarifying some of the wording of the Act; and I have no doubt that in the intervening months between now and next session something of that nature will be done.

Mr. Bovell: Will you promise that it will not be brought down in the dying hours of the next session?

The MINISTER FOR LABOUR: I am not going to repeat to any great extent what I have already said. I have explained why—

Mr. Bovell: I know.

The MINISTER FOR LABOUR: There are about half a dozen clauses in the Bill, and the hon. member has the unlimited and undoubted ability to absorb and understand a Bill of this nature, and to make an intelligent approach to the suggested amendments.

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

Ayes	22
Noes	14
Majority for	8

Ayes.	
Mr. Andrew	Mr. Lapham
Mr. Brady	Mr. Marshall
Mr. Gaffy	Mr. Nulsen
Mr. Graham	Mr. O'Brien
Mr. Hall	Mr. Potter
Mr. Hawke	Mr. Rhatigan
Mr. Heal	Mr. Rodoreda
Mr. W. Hegney	Mr. Sleeman
Mr. Hoar	Mr. Toms
Mr. Jamieson	Mr. Tonkin
Mr. Johnson	Mr. Norton
	(Teller.)

Noes.	
Mr. Ackland	Mr. W. Manning
Mr. Bovell	Mr. Nalder
Mr. Brand	Mr. Oldfield
Mr. Court	Mr. Owen
Mr. Grayden	Mr. Thorn
Mr. Hearman	Mr. Watts
Mr. Hutchinson	Mr. Crommelin
	(Teller.)

Pairs.	
Ayes.	Noes.
Mr. May	Mr. Cornell
Mr. Kelly	Mr. I. Manning
Mr. Evans	Mr. Roberts
Mr. Moir	Mr. Perkins
Mr. Sewell	Sir Ross McLarty
Mr. Lawrence	Mr. Mann

Question thus passed.

Bill read a second time.

In Committee.

Mr. Heal in the Chair; the Minister for Labour in charge of the Bill.

Clause 1—agreed to.

Clause 2—Section 5 amended:

Mr. COURT: As I indicated during the second reading, I have no desire or intention to debate each of the clauses in detail. For that reason I previously outlined my understanding of the clauses and my objection to them. I want it to be understood, however, that the fact that we do not debate each clause and divide on it, does not mean to say that we accept it. The Minister understood that during the second reading. This is done to facilitate the passage of the Bill, but I would like it recorded that we are opposed to the measure.

Clauses 3 to 11, Title—agreed to.

Bill reported without amendment and the report adopted.

Third Reading.

The MINISTER FOR LABOUR: I move—

That the Bill be now read a third time.

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

Ayes	22
Noes	15
Majority for	7

Ayes.	
Mr. Andrew	Mr. Lapham
Mr. Brady	Mr. Marshall
Mr. Gaffy	Mr. Nulsen
Mr. Graham	Mr. O'Brien
Mr. Hall	Mr. Potter
Mr. Hawke	Mr. Rhatigan
Mr. Heal	Mr. Rodoreda
Mr. W. Hegney	Mr. Sleeman
Mr. Hoar	Mr. Toms
Mr. Jamieson	Mr. Tonkin
Mr. Johnson	Mr. Norton
	(Teller.)

Noes.	
Mr. Ackland	Mr. Nalder
Mr. Bovell	Mr. Cornell
Mr. Brand	Mr. Owen
Mr. Court	Mr. Thorn
Mr. Grayden	Mr. Watts
Mr. Hearman	Mr. Wild
Mr. Hutchinson	Mr. Crommelin
Mr. W. Manning	*(Teller.)*

Pairs.	
Ayes.	Noes.
Mr. May	Mr. Cornell
Mr. Kelly	Mr. I. Manning
Mr. Evans	Mr. Roberts
Mr. Moir	Mr. Perkins
Mr. Sewell	Sir Ross McLarty
Mr. Lawrence	Mr. Mann

Question thus passed.

Bill read a third time and transmitted to the Council.

BILL—BILLS OF SALE ACT AMENDMENT.

Council's Message.

Message from the Council notifying that it insisted on its amendments Nos. 1 to 7, now considered.

In Committee.

Mr. Heal in the Chair; the Minister for Justice in charge of the Bill.

The MINISTER FOR JUSTICE: I move—

That the amendments be agreed to.

The Council's attitude is hard to understand because in 1948 it agreed to a similar provision in a number of important Bills.

In the circumstances I must reluctantly agree to the amendments made by another place. The attitude that has been made apparent seems to be simply perversity on the part of the Legislative Council because this is a Labour Government. Democracy does not operate in this Parliament owing to the franchise in another place, which represents only one-fifth as many people as are represented here. Another place is nothing but a House of domination.

Hon. D. Brand: Are you debating a measure to amend the franchise of another place?

The Premier: The Leader of the Opposition should study the notice paper.

The MINISTER FOR JUSTICE: It is with reluctance that I agree to the amendments.

Mr. COURT: I am glad the Minister has agreed to the amendments. The fees under this legislation have been changed only twice in the last 50 years and the Legislative Council has agreed to the fees set by the Minister and merely seeks to prevent him altering those fees by regulation.

Question put and passed.

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

BILL—NURSES REGISTRATION ACT AMENDMENT (No. 2).

Council's Amendments.

Schedule of three amendments made by the Council now considered.

In Committee.

Mr. Heal in the Chair; the Minister for Health in charge of the Bill.

No. 1.

Clause 2, page 2, line 14—Delete the word "ten" and substitute the word "twelve."

The MINISTER FOR HEALTH: I oppose the Council's amendments. The Bill proposed to include the principal matron of the Public Health Department, which would have been of great assistance.

However, an amendment was successfully moved by Dr. Hislop in another place designed to increase the members of the board by three tutor sisters. Since then, however, the Australian Nursing Federation has considered the matter and has submitted alternative proposals which, I understand, are acceptable to Dr. Hislop. Those alternative proposals aim at adding to the board the principal matron of the Public Health Department ex officio and a specialist in general education representing the Education Department. This would increase the numbers on the board to 13 which, although perhaps considered to be undesirable, has much to recommend it in other respects and the board will still be only half the size of the Nursing Council of Victoria. I move—

> That the amendment be amended by striking out the word "twelve" and inserting the word "thirteen" in lieu.

Mr. ROSS HUTCHINSON: I agree with the Minister's amendment and hope that it will be passed. Originally the Bill sought to increase the members of the board by one to include only the principal matron of the Public Health Department. Subsequently, in another place, Dr. Hislop moved an amendment to increase the members of the board to 12 by having on it three tutor sisters, so that they could give the board the benefit of their advice and experience.

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

No. 2.

Clause 2, page 2—Add after subparagraph (iia) a further subparagraph as follows:—

> (iib) a matron of one of the nursing training hospitals of the metropolitan area elected by the matrons of these hospitals.

The MINISTER FOR HEALTH: I move—

> That the amendment be amended by striking out subparagraph (iib) and inserting in lieu the following:—
>
> (iib) an officer of the Department of Education who is a specialist in general education, and nominated by the Minister for Education.

Mr. ROSS HUTCHINSON: It will be of advantage to the board that there should be appointed to it an officer of the Education Department who is a specialist in general education. This officer will be nominated by the Minister for Education. At certain times there will come before the board a number of matters concerning which the advice of the representative of the Education Department would be most valuable.

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

No. 3.

Clause 2, page 2—Add paragraphs to stand as paragraphs (c) and (d) as follows:—

> (c) by substituting for the words "Two senior" in line seven of subsection (4) the word "Three";
>
> (d) by inserting after the word "registered" in line seven of subsection (4) the word "tutor."

The MINISTER FOR HEALTH: I move—

That the amendment be amended as follows:—

(1) In paragraph (c) the word "four" be substituted for the word "three."

(2) In paragraph (d) the following paragraph be substituted for paragraph (d)—

(d) by deleting the full stop after the word "nursing" in line eleven of subsection (4) and adding the following passage:—", another of whom shall be a tutor, another of whom shall be a general trained nurse, and another of whom shall be a mental trained nurse qualified for registration as a general trained nurse."

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

Long Title:

The MINISTER FOR HEALTH: I move—

That the long title be amended by striking out the words "An Act to amend the Nurses Registration Act, 1921-1956, to provide for an Additional Member of the Nurses Registration Board" and inserting in lieu the words "An Act to amend the Nurses Registration Act, 1921-1956, to provide for Additional Members of the Nurses Registration Board."

Amendment put and passed.

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

BILL—MOTOR VEHICLE (THIRD PARTY INSURANCE) ACT AMENDMENT.

Second Reading.

Debate resumed from the 20th November.

HON. A. F. WATTS (Stirling) [5.36]: There are parts of this measure of which I approve, but there are others of which I have some doubt. I will endeavour to explain to the Minister and to the House what raises this doubt in my mind. Dealing with one of the amendments, the Minister said—

Another seeks to clarify the existing provision and yet another is to bring the principal Act into line with a particular provision in the Traffic Act.

This is the one I want to refer to principally—

The Act gives the trust the right to recover from a participating approved insurer the latter's proportion of a deficit due by it for some years, but the trust may not desire to call upon a participating insurer to pay for some years and it is thought the existing wording of the section may not be adequate to prevent the limitation Act operating to bar the trust's claim. The amendment will resolve the matter beyond doubt.

That is what the Minister told the House. However, it does not resolve the matter beyond doubt to my way of thinking, but rather makes confusion a little worse confounded. So I am going to ask the Minister to tell us a great deal more about it. The section of the Act which the Minister is seeking to amend is Section 3P and he intends to add a new paragraph to Subsection (6). That subsection reads as follows:—

The deficit, if any, to the debit of each such account which remains after all such claims have been finalised, shall become the liability of the participating approved insurers during the year to which such account relates in proportion to the interest of each of them in the fund during that year, and the trust may recover from each participating approved insurer such proportionate amount at any time deemed expedient to the trust, and in respect of such recovery the provisions of Subsection (5) of Section three N of this Act shall apply.

This all arose out of a proposition in the Act which states that the trust shall keep a separate account for each year showing in it the total amount paid or incurred by the trust in respect of its administration and general expenses during the year to which the account relates, and showing the total amount paid by the trust in respect of claims and costs and showing also the total amount of premiums received by the trust. Then if there is a credit balance, the trust is going to distribute among the participating approved insurers for the year in which the surplus occurs an amount by way of dividend limited as provided for in subparagraph (iv) of paragraph 5 (a) of Section 3P.

As this business is to be on an annual basis, if there is a surplus it is to be distributed in the year in which it is made and if there is a liability it is to be collected from the participating approved insurers in proportion to the business transacted by each of them, and I cannot for the life of me see why the Statute of Limitation should come into this at all because that gives one a limit of six years in which to recover any money that is outstanding. If one can get an acknowledgment in writing of the debt or a part payment, the period would be longer than six years.

Therefore, why it should be necessary to make a hiatus of the six-year period when the whole intent of the Act—as far

as I can see—is to deal with it on a yearly basis, passes my comprehension. I fail entirely to understand why it is necessary to provide in this new proposal that the claims of the trust shall not be barred by a lapse of time under the law relating to limitations, because it seems to me that the proposal in the Bill is entirely contrary to the intention in the Act.

Surely to goodness this trust is not proposing to leave participating insurers alone for a period of six years when they owe it money. It is only on that basis that this clause can have any effect. The participating insurers have to make up the deficit in the fund that has been occasioned by the claims and the costs being greater than the premiums received. Surely to goodness it is not the intention of the trust to let that deficit stand over for six years before it proceeds to make the necessary claim upon the participating insurers and seek to correct the deficit which has occurred as a result of the year's operations, any more than I would expect it to delay for such a length of time if it were completely satisfied there was a surplus available for distribution among the participating insurers!

So it appears to me that not only is this proposition contrary to the spirit of the Act, but also, in practice, it should be unnecessary, even if it were not contrary to the spirit of the Act. Therefore, I do not think we ought to agree to that particular paragraph in the Bill. Further on in this measure there is an amendment to Section 7 (3) of the principal Act which subsection provides—

> Where the driver of a motor-vehicle has caused death or bodily injury by negligence in the use of a motor-vehicle but the identity of the vehicle cannot be ascertained, any person who could have obtained a judgment in respect of the death or bodily injury so caused against the driver may obtain by action against the trust the judgment which, in the circumstances, he could have recovered against the driver of the vehicle:

The Minister's proposal does not alter that at all. Down to the word "vehicle" the existing provision of Subsection (3) of Section 7 of the principal Act is repeated verbatim—absolutely word for word. The only alteration is in the proviso; and so far as the alterations to the proviso are concerned they do not seem to be much different from the old story of Tweedledum and Tweedledee because the proviso in the Act says—

> Provided that, as soon as possible after he knew the identity of the vehicle could not be ascertained, he gave to the trust notice of the claim and a short statement of the grounds thereof.

The Minister's amendment says that—

> Provided that as soon as possible after the happening of the accident
>
> (a) he made due search and inquiry to ascertain the identity of the vehicle; and
>
> (b) he gave to the trust notice in writing of the claim and a short statement of the grounds thereof.

The Minister argued that the whole purpose of inserting new Subsection (3) in the Act was to make it clear that the effort to find the identity of the vehicle involved in an accident was made as soon after the accident as possible. That, to my way of thinking, is already implicit in the existing legislation and it appears to me that the purpose of the amendment is only to make it more difficult for people who are involved in difficulties of this nature. To wit, if injured by a vehicle, which we will say is a hit and run, in very many cases these people, as I understand the position, are so injured or so affected by the accident that they are not in a position to take action to find the identity of the vehicle themselves as soon after the accident as possible. All that could happen is that the accident is reported, usually in such cases by their relatives, to the Police Department and other authorities concerned; and they have to undertake the responsibility of finding out, if they can, the identity of the vehicle responsible for the accident. But the amendment, so far as I can see it, is designed to place the obligation of finding out the identity of this vehicle upon the injured party.

If it is not for this purpose, I can find no reason for the very slight amendment to the clause and to place the responsibility for this, as I say it does, on the injured party, who might be completely noncomposmentis for days or weeks after the accident is to lay it open to very considerable objection. Therefore, I do not think that I want to subscribe to that particular proposition.

The third item I want to refer to—I have no desire to traverse the whole of the amendments in this Bill when I have no objection to them—is one which limits the existing period, if I remember rightly, from 12 months to six months. That comes from Section 29 of the principal Act, which section refers to a person as follows:—

> Where any person has suffered death or bodily injury as the result of the use of a motor-vehicle by any person which may, under the provisions of this Act, give rise to an action for damages against either an injured person or the trust no such action shall be commenced or be maintainable unless notice in writing as prescribed by the regulations is given by the person proposing to claim

damages or some person on his behalf to the insured person or the trust from whom he proposes to claim such damages, of his intention to claim such damages as soon as practicable after the happening of the accident out of which such claim for damages arises and the claim for damages has been made within 12 months from the happening of the said accident, or, in case of death, within 12 months from the date of the death of the person in respect of whom the claim is made.

The Bill provides that if no legal proceedings to enforce a claim have been commenced on behalf of the claimant after the expiration of six months after the happening of the accident, then the claim cannot be made. And it goes on to say that if the claimaint does not commence such legal proceedings within 42 days after the expiration of the notice—no notice is given now—he shall be forever barred and the claim extinguished. I think, in sweet reasonableness, we should leave the Act as it is. No evidence has been given to me that it is necessary to diminish the period of time. We know perfectly well when these serious accidents take place, that they do not leave people in the sound state of mind or physical condition to be able to undertake the responsibility of exercising their rights very rapidly.

We cannot say here that the result of an accident is going to be cured in two weeks or two months; six weeks or six months. In some cases, people have been known to be in a very serious condition for periods of over six months. As I say, there has been no information given to us to show that the trust has been unfairly dealt with as a result of a provision in the present law or that any fraud or chicanery has taken place as a result of the present law.

It seems to me that the amendment is only to make it a little more difficult. Goodness knows! As between people in good health and complete physical condition there is a limitation of longer than six months in most cases before one is compelled to bring proceedings. It is very rarely that proceedings have to be brought within six months of the time when the cause of action arises, and I think when dealing with people who have been hampered in a motor accident and who are, in many cases, sadly injured, we should at least be no less obliging to them than in the normal cases.

The Minister for Health: I think the idea is to bring the case before the court as soon as possible while it is fresh in the mind.

Hon. A. F. WATTS: No doubt it is, but we are not only dealing with hit-and-run cases, we are dealing with accidents which cause death or bodily injury; not cases where they cannot be identified, but where they can be identified. My point is this: When people are in the normal condition of good health we give them up to six months, even against Government instrumentalities, to prosecute their claims; and I would not like to see them given less than 12 months in circumstances where they are probably seriously injured as the result of an accident. This is going to apply to all cases, not only to the person who suffers a type of injury which does not mentally upset him; it will apply to every accident that takes place.

The Minister for Health: It is 12 months under the present Act.

Hon. A. F. WATTS: Yes, and I have no objection to the present Act. There must be a limitation in a matter of this kind, but I cannot bring myself to think it should be reduced to six months. Those are my three objections to the measure. So far as the rest of the Bill is concerned, I have nothing to say, and support the second reading.

Question put and passed.

Bill read a second time.

ADJOURNMENT—SPECIAL.

THE PREMIER (Hon. A. R. G. Hawke—Northam) I move—

That the House at its rising adjourn till 3.30 p.m. on Tuesday, the 26th November.

House adjourned at 5.57 p.m.