Legislative Council

Tuesday, 10th August, 1954.

CONTENTS.

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

BILLS (3)—THIRD READING.

1, Shipping and Pilotage Ordinance Amendment.
Transmitted to the Assembly.

2, Inspection of Scaffolding Act Amendment.

3, Companies Act Amendment.
Passed.

BILL—STAMP ACT AMENDMENT.

Second Reading.

Order of the Day read for the resumption from the 5th August of the debate on the second reading.

Question put and passed.

Bill read a second time.

In Committee.

Hon. W. R. Hall in the Chair; the Chief Secretary in charge of the Bill.

Clauses 1 and 2—agreed to.

Clause 3—Second Schedule amended:

Hon. H. K. WATSON: I move an amendment—

That after the word "amended" in line 4, page 2, the words "as follows:—(a)" be inserted with a view to adding the following at the end of the clause:—

(b) Under the heading "Conveyance or transfer on sale of property—

(i) Item 5, commencing with the words "Transfer of shares of any co-operative and provident society" is amended by inserting after those words the words "or of any building society."

(ii) Item 6, commencing with the words "Transfer of shares in any building society" is deleted.

This amendment is designed to correct an anomaly which was overlooked when the stamp duty on share transfers was reduced from £1 a hundred to 5s. a hundred. Shares in building societies were shown in a separate item in the schedule with the result that, although building societies, and the other company mentioned in the schedule, were intended to have a special concession, the stamp duty on the transfer of shares in all companies other than building societies is now only 5s. a hundred, whereas the stamp duty on the transfer of shares of building societies is still £1 a hundred.

The CHAIRMAN: In my opinion this amendment is out of order. I have given it some consideration and have come to this conclusion because I believe it is outside the scope of the Bill, inasmuch as it is not relevant to the subject matter of the measure. Standing Order 191 provides that—

> Any amendment may be made to any part of the Bill provided the same be relevant to the subject matter of the Bill, and be otherwise in conformity with the Standing Orders.

Standing Order 3, regarding the subject matter of a Bill, reads as follows:—

> "Subject matter of Bill" means the provisions of the Bill as printed, read a second time, and referred to the Committee.

The Bill now before the Committee provides for one thing, and one thing only—the repeal of that section of the Second Schedule which relates to the admission of practitioners to the Supreme Court. I feel that the hon. member's amendment is irrelevant, and is not within the scope of the Bill. There is a slight doubt about it; but although we are dealing with the Second Schedule, and the amendment deals with the Second Schedule, in my opinion it is outside the scope of the Bill, and I rule that the amendment is out of order.

Hon. H. K. WATSON: I think there is room for considerable doubt on the matter, inasmuch as the Bill amends the Second Schedule, and my amendment deals with the Second Schedule. However, unlike the Chief Secretary, who seems to think Chairmen's rulings are made only to be disagreed with, I do not propose to disagree with your ruling, Sir. But I suggest to the Chief Secretary that as this anomaly has been a matter of long-standing duration, the Government

could well consider bringing down a Bill containing the substance of the amendments set out on the notice paper.

The CHIEF SECRETARY: One often gets a reputation that is quite undeserved. The only time I ever move to disagree with the Chairman's ruling is when I consider his interpretation is wrong. As I have said before, I never state anything without having facts to back me up; and in my 26 years in this Chamber I have moved to disagree with a Chairman's ruling on three occasions only. During that time some hundreds, and probably thousands, of rulings must have been given by various Chairmen.

Hon. H. Hearn: You must have let some go by default.

The CHIEF SECRETARY: The reputation attributed to me today by Mr. Watson is not quite correct.

Clause put and passed.

Title—agreed to.

Bill reported without amendment and the report adopted.

BILL—LOTTERIES (CONTROL).

Second Reading.

Debate resumed from the 5th August.

HON. SIR CHARLES LATHAM (Central) [4.46]: I would like to say to the Parliamentary Draftsman, through the Chief Secretary, that this Bill is very clearly drafted and is easier to follow than most measures which come before this Chamber. It sets out the ideas of the commission, and the draftsman has placed them in such order that it is easy to follow them.

The original Act was introduced in 1932, and at that time the measure met with a good deal of public opposition, particularly from the churches. The Lotteries Commission has been operating for 21 years; and, through its money, has done a good deal for charity. Also, the Government has been assisted at various times, and as a consequence, the Lotteries Commission has established itself in the annals of this State and evidently meets with general public approval.

I have not the details of the money supplied to charity, but I can give members some idea of the amounts paid out last year from this voluntary form of taxation. In addition to helping charity, the commission also relieves the Government of expenditure from Consolidated Revenue and from Loan Funds. When one considers the amount that has been spent by the Lotteries Commission on the Royal Perth Hospital and the Mt. Henry Home for Aged People, one realises how much the Government has been saved in expenditure on those two institutions alone. However, I do not know whether it is a wise form of taxation, because I always regard taxation as something to which we all ought to contribute according to our means. In this instance—

Hon. H. Hearn: It is according to our inclinations.

Hon. Sir CHARLES LATHAM: Yes, but it is an extremely popular method. Last year, well over £1,000,000 was paid to the Lotteries Commission. I have not got the exact figures and I would not vouch for the amount being absolutely correct, but I think that over £1,000,000 was paid in last year. It is true that the Lotteries Commission does not have the entire amount to itself, because there is the cost of administration and the prize money to be paid out of it. It is a very large sum of money; and I venture to suggest that if a Bill were introduced in another place imposing a taxation of £1,000,000 and it were sent along here, there would be great opposition to it. But all Governments have got away with it since 1932, and I offer no great objection.

I would like, however, to say something about the power given to this commission to approve or disapprove of raffles and forms of lotteries for charitable purposes. I think that sometimes there might be an audit, and that the commission should have power to investigate the cost of running some of those raffles and that sort of thing.

I have consulted some of the members of the commission, and they say that they are very careful and have a good look at those aspects of the matter. However, I wonder just how much it costs to run some of those shows. Under the powers given to the Commissioner of Taxation, amusements are permitted to be run tax-free provided not more than 25 per cent. of the amount is used in expenses. If raffles are to be run, we should see that the idea behind them is that the money is to go to charitable purposes.

The Minister for the North-West: That is, amusements for charity.

Hon. Sir CHARLES LATHAM: Yes. The Bill contains two important provisions. One makes the Act permanent. Previously, and for the first few years, the annual approval of Parliament had to be obtained. The period was later extended to three years, and then it was provided recently that Parliament's approval had to be obtained after five years.

This commission is like an ordinary board. A board is usually set up for the purpose of running some kind of business on behalf of certain interests; in this case it is the public that is interested more than anybody else. The subscribing public particularly is interested; and, in consequence, I think there ought to be a very close tie-up in some way with Parliament, because the matter has very wide ramifications. I do not propose to move in that direction, but I think the Minister might tell us exactly what safeguards there are.

It is true that the members of the commission have only a three-year appointment, and that is provided in the Bill. But the wording of the Act is that they are eligible for reappointment. Some years ago I sought advice from the Crown Law Department as to whether the Minister had the right to determine the appointment of a member of a trust or a commission. I was told that it was more or less a permanent appointment, and unless something derogatory could be proved in the business methods adopted, the appointment had to continue. So as long as these men are in the office they may be regarded as holding permanent positions.

I am sorry that the commission is to be permanent; because, as I said before, I wanted Parliament to have some tie-up with this matter in order that the public might be protected. I do not wish members to think that I have any doubt in my mind about the management of the commission. I have not. Nevertheless, once we put this measure on the statute book permanently it becomes general, and there is no connection between the commission and Parliament, except that certain information is supplied to the House by the Minister after the drawing of each lottery. I am not sure, however, whether that is a real safeguard, and accordingly I wonder whether it is wise to make the commission permanent. I propose to move an amendment later and hope the House will agree to it.

In the past, Parliament itself has determined the remuneration to be paid to the commission, and this has always been the case. I have no objection to it. However, it is now proposed that the Governor-in-Council shall fix the remuneration. I would like to see it fixed by regulation so that Parliament would have an opportunity of saying yea or nay. If Parliament did not want to raise any objection, that would be all right. But the provision in the Bill removes control from Parliament. One hears so much scandal at times about certain lotteries that I think it would be wise to take all precautions to ensure that the people have security in this method of raising money. As I have said, it is a voluntary form of taxation; and because of that, we want to retain the great confidence we have in the commission.

I do not think any complaint can be made about the law itself. I have already pointed out that the Bill is one of the most concise and clear pieces of drafting we have seen. The language is quite simple, and it does not require a Philadelphia lawyer to tell us what the clauses mean. I propose to support the second reading. I think that the commission and past commissions have done a very good job. They have retained the public interest and confidence, and that is a very important thing.

But I think Parliament should be given the power to determine the remuneration to be paid; we should at least be given the opportunity of saying yes or no. That is all that would be necessary except, perhaps, that I would like to see Parliament given the right to say whether the lotteries should continue. On the other hand, Parliament has the right to repeal the Act at any time it may desire to do so, provided, of course, that a majority of both Houses is agreeable; and that might be some protection to the public. I would not like the people to think, however, that there is any doubt in our minds as to the efficient way in which the commission is conducted.

Question put and passed.

Bill read a second time.

In Committee.

Hon. W. R. Hall in the Chair; the Chief Secretary in charge of the Bill.

Clauses 1 to 4—agreed to.

Clause 5—Lotteries Commission constituted:

Hon. Sir CHARLES LATHAM: I am wondering whether the Minister would agree to report progress. I wish to move an amendment to this clause, but I have not been able to place it on the notice paper. I desire to have the words "the Governor may determine," at the end of Subclause (6), struck out, and the words "may be determined by regulation" inserted in lieu. That would enable the Minister to fix the payment of members of the commission, and at the same time would afford members an opportunity of expressing an opinion on the matter if they so desired when the regulations were tabled. Previously only Parliament had power to fix this remuneration.

Progress reported.

BILL—WAREHOUSEMEN'S LIENS ACT AMENDMENT.

In Committee.

Hon. W. R. Hall in the Chair; the Chief Secretary in charge of the Bill.

Clause 1—agreed to.

Clause 2—Section 7 amended:

The CHIEF SECRETARY: There is an amendment to this clause but I have not had time to go into it, and I would therefore like progress to be reported.

Progress reported.

BILL—INQUIRY AGENTS LICENSING.

Second Reading.

Debate resumed from the 5th August.

HON. E. M. HEENAN (North-East) [5.5]: This is a relatively small Bill, which I think the House will pass without amendment. Members will recall that

it followed the report of a select committee which this House appointed in 1952. The committee presented its report on the 4th December, 1952, and I am sure the members feel pleased that the Government followed the main recommendations in that report. Those recommendations were that people who hold themselves up as inquiry agents should be licensed and that there should be proper safeguards in that respect.

The committee came to the unanimous conclusion that, in our modern society, inquiry agents are necessary; and, that being so, that it is right and proper that men of good character and capacity should engage in the business. I think the Bill will fulfil the requirements of the committee in that regard; and, like Mr. Jones and the other members of the committee, I have much pleasure in supporting it.

There are one or two small matters in which the Bill does not completely follow the recommendations of the committee; but they are more or less of a minor nature, and I do not propose to take any exception at this stage. It may be necessary, in the light of experience, for the measure to be amended. The Government is to be commended for introducing the measure in this form. I feel it will make a worthwhile contribution towards ending what has been a rather unsatisfactory state of affairs.

Question put and passed.

Bill read a second time.

In Committee.

Hon. W. R. Hall in the Chair; the Chief Secretary in charge of the Bill.

Clauses 1 and 2—agreed to.

Clause 3—Inquiry agents must be licensed:

The CHIEF SECRETARY: I move an amendment—

That the word "or" in line 21, page 2, be struck out.

Amendment put and passed.

The CHIEF SECRETARY. I move an amendment—

That the word "or" be inserted after the word "evidence" in line 24.

Hon. C. H. SIMPSON: I have no objection to this, but I think the Chief Secretary might explain to the House exactly what are the meaning and effect of the two amendments he has moved.

The CHIEF SECRETARY: I wished to move to strike out the word "or" in one line and to insert it in another. That did not give me much latitude to explain the purpose. I was afraid that had I gone beyond merely moving as I did, the Chairman would have pulled me up.

The CHAIRMAN: That is quite likely, too.

The CHIEF SECRETARY: I happened to be in another place at one time, and there was an amendment to delete from a clause the words "but not." Each time the hon. member moving the amendment attempted to make an explanation, he was told to speak to the amendment.

Hon. C. H. Simpson: All chairmen are not correct.

The CHIEF SECRETARY: Finally, in exasperation, the hon. member said, "What am I to say—'But not, but not, but not'?" I did not want to be placed in the same position by having to stand up and say, "or, or, or, or." Consequently I was reserving my remarks on the matter till later; and if the hon. member had had patience, he would have heard the story unfolded. My idea is to add a new paragraph to this clause, and that is the reason for the transfer of the word "or" from one place to another.

Hon. Sir Charles Latham: Might I ask whether that will not apply to paragraph (a) as well?

The CHIEF SECRETARY: We wish to use the word "or" as little as possible. Consequently we are having it inserted only after the second to last paragraph.

Amendment put and passed.

The CHIEF SECRETARY: Now comes the explanation. I move an amendment—

That a new paragraph be added as follows:—

(d) shall advertise to the effect that his services are available to obtain evidence.

It was suggested during the debate that that paragraph be added.

Amendment put and passed.

The CHIEF SECRETARY: I move an amendment—

That a new subclause be added as follows:—

(3) The holder of a licence may advertise that he is the holder of a licence under this Act and his name and the place where and the times when he may be consulted, but shall not include other information in any advertisement.

Penalty: Fifty pounds.

Hon. E. M. HEENAN: I am glad to see this amendment; and I feel that other members will be pleased also, as it contains one of the recommendations of the select committee. In the past, these inquiry agents have advertised not only that they would obtain evidence, but also that they would give advice, and so on. It is desired to confine them to obtaining evidence, as they are not qualified to give legal advice.

Hon. Sir CHARLES LATHAM: I have not had time to work out what effect this amendment will have; but, as Mr. Heenan

and others who were on the select committee appear satisfied, I will not oppose it.

Amendment put and passed; the clause, as amended, agreed to.

Clauses 4 to 9, Title—agreed to.

Bill reported with amendments.

BILL—STATE GOVERNMENT INSURANCE OFFICE ACT AMENDMENT.

Second Reading.

THE CHIEF SECRETARY (Hon. G. Fraser—West) [5.20] in moving the second reading said: This Bill is similar in its provisions to that which involved some rather unusual happenings last year. Members will recollect that, after successfully passing the second reading by 16 votes to 9, the Bill emerged without difficulty from the Committee stage. I agreed to have deleted the provision that would have given the State Insurace Office the right to indulge in life assurance business, and also accepted an amendment requiring the State office to pay to the Treasurer the equivalent of the income tax, payroll tax, social services contribution, and other taxes for which the office would be liable were it a public company. I might say these amendments are included in the present Bill.

After such a successful passage, I was most concerned when, on a snap vote, the Bill was defeated on the third reading by 13 votes to 11. However, the House was good enough to agree with my request again to place the Bill on the notice paper so that the third reading could once more be put to the vote. The result, as members will recollect, was the defeat of the Bill by 15 votes to 12.

I did feel that members were most inconsistent in their attitude to the Bill. Having passed it through the second reading with little trouble and after submitting amendments which I accepted, they then somersaulted and threw the Bill out on the third reading. The Government considers the principle involved in the Bill to be most important; and as the margin of defeat last year was so small, it has brought the Bill down this session for further consideration.

As I have said, the Bill takes heed of two important amendments agreed to last year by this House; namely, it does not propose that the State office shall carry on life assurance business, and it requires that the equivalent of taxes paid by a public company shall be paid into the Treasury. In addition, the provisions in the schedule which were deleted by the Committee from last year's Bill have not been included; while those provisions in the schedule which were acceptable are in the Bill.

Briefly, the Bill seeks to extend the scope of the State office to enable it to undertake all classes of insurance, with the exception of life assurance. That is the sole purpose of the Bill; but, to achieve this laudable object, a number of consequential amendments are required, and these have the effect of increasing the size of the measure.

I am informed by the administrative staff of the State office that requests are received practically every day from people desirous of commencing business with the office, and that these persons express surprise and regret at being unable to have their wishes granted. It appears that the majority of people would agree to the State office being given this authority, but that this, so far, has been blocked by a small but influential minority.

In the course of its activities, the State office has arranged a number of loans with various road boards and has received requests for loan money from one or two of our largest local government authorities. There is no doubt that, if the activities of the office were extended, money at a reasonable rate of interest could be made available to these authorities.

Since the establishment of the local government authorities' pool insurance scheme, the office has rebated £7,465 to the local government authorities, notwithstanding the fact that the initial premiums charged were lower than those previously charged by insurance companies. Members will realise that the people to reap the benefit of the savings effected by local authorities through placing their insurance business with the pool are the local ratepayers.

As agent for the Treasurer, and through the Government Fire, Marine & General Accident Insurance Fund, the State office has, for many years now, undertaken all classes of insurance other than life assurance and there is little doubt that no individual insurance office in Western Australia is writing as much marine, fire, and other general insurance business as the State office. It cannot be gainsaid, therefore, that the office is well equipped to handle every type of general accident business which may be offered to it.

That the State office has been of tremendous advantage to Western Australia is clearly demonstrated by the report of the Auditor General which was recently tabled in this House. As members know, although the office started in a very small way, without any financial assistance from the Treasurer, it is now the largest general accident office operating in Western Australia; and this with the handicap of its restricted franchise.

The office has funds totalling over £2,000,000 invested in Commonwealth inscribed stock, local government loans,

fixed deposits, etc. In addition, adequate reserves are being created to meet risks of an exceptional nature, so that the cost of settling these claims can be arranged without embarrassment to the office.

Without in any way interfering with the investments, the office is providing approximately £400,000 for the construction of a ten-storey building which will accommodate a number of Government departments, thus relieving the office congestion which has been experienced by departments for many years. Without the State Government Insurance Office, it would have been impossible to proceed with the erection of such a building at this stage; and, when it was ultimately erected, the cost would have been a charge to General Loan Funds.

In the past, opponents of the proposal have pointed out that it was not possible for the State office to arrange reinsurances as satisfactory as those available to the insurance companies. Objections were also raised to the fact that the office had reinsurance contracts with overseas underwriters.

That this procedure is general throughout Australia is evidenced by the following comments which were made by the chairman of the United Insurance Co., and which appeared in the "Insurance and Banking Record" of the 21st December, 1953—

> The burden of statutory charges imposed on Australian insurance companies in recent years has caused some overseas companies to refuse reciprocal treaty reinsurance facilities in Australia, thus contracting the field over which risks might be spread, the chairman of United Insurance Company Limited, Mr. E. R. Knox, told the annual meeting. Because the Australian market could not retain more than a token proportion of the huge liability represented by premiums paid in Australia, overseas reinsurance markets must be used to cushion the effect of the majority of losses with Australia.

In respect of its reinsurance treaties, therefore, the State office is doing nothing that would not be done by the private companies, and is doing everything that is required to safeguard its financial position and to protect its clients in respect of any claim arising, no matter how great.

In quoting that statement by the general manager of one of the leading tariff companies I am not implying that the State office would reinsure business abroad. What I intend is to show it has been necessary for all tariff companies to seek overseas markets for their reinsurance business, and that the State office could adopt a similar policy. However, it would be the policy of the office to retain as much money in Western Australia as is possible for the obvious reason that the less sent overseas the better for the State.

The State office has always been prepared to meet the Underwriters' Association on any reasonable basis, reserving the right, of course, to pay such bonuses, or make such discounts available as the profits of its business permit. It is interesting to note that in June of 1952 the State office offered to reinsure £2,000,000 of a certain risk with the Underwriters' Association which, had it been accepted, would no doubt have been distributed between the tariff companies. After a lapse of three months, which caused some embarrassment to the State office, it received a letter from the Underwriters' Association which stated, inter alia—

> As our two organisations do not operate on identical lines it does not seem practicable or possible, unfortunately, to enter into a reinsurance agreement as was at first mentioned. The rates applicable would have to be a matter of agreement after a discussion on each particular risk, but in fairness we would advise that we consider, in regard to the South Fremantle Power House, that the rate mentioned appears to us far too low.

It is obvious that any rate fixed by the State office for any risk covered by the office must be such as would be acceptable to reinsuring underwriters; and, in this particular case, the office experienced no difficulty whatsoever in obtaining a complete reinsurance of the risk. If this Bill is passed the State office is prepared to reopen negotiations with the Underwriters' Association with a view to reciprocal business between the office and the companies.

It has been said that companies' profits would average, perhaps, 5 per cent. to 7 per cent., which is rather surprising as the facts are so readily ascertainable. In "The West Australian" newspaper of the 12th May, 1953, the following appears:—

> The Eagle Star Insurance Company is raising its ordinary dividend by 5 per cent. making 45 per cent. for 1952 or 4s. 6d. a share, the final payment being 10 per cent. For each of the preceding six years the distribution was 40 per cent.

Hon. H. K. Watson: But what was the investor's return on shareholders' funds? Reserves and suchlike?

The CHIEF SECRETARY: I do not know whether that information was available.

Hon. H. K. Watson: Well, that is very important.

The CHIEF SECRETARY: I am giving only the general details.

Hon. C. H. Simpson: Are there any figures available for other companies?

The CHIEF SECRETARY: Yes, I am coming to them. The following information appears in the "Australian Insurance and Banking Record" of the 21st June, 1954:—

Name of Company	Nominal Share Value	Dividend Rate per cent.	Share Value In May, 1954
Australian General	15s.	12.5	46s. 3d.
Automobile Fire	20s.	25	64s.
Bankers & Traders	12s. 6d.	12.5	39s. 6d.
Mercantile Mutual	20s.	15	62s.
New Zealand Ins. Co.	20s.	17.5	152s.
Queensland	20s.	12.5	68s. 6d.
South British	10s.	18.3	75s.
South Pacific	10s.	10	33s.
United	£5	12.5	£18 10s.
Victoria	10s.	20	47s.

It can be confidently assumed that, during the lifetime of a number of these companies, there have been substantial bonus share issues so that, in fact, the dividend rates quoted would be considerably higher if they were paid on the original share issues at par value.

Comparison has been made between the workers' compensation business and similar business undertaken by the State Government Insurance Office of Queensland, but actually that has little to do with the Bill before the House, as the State Insurance Office has already the statutory authority to handle workers' compensation business.

Dealing with the fire business of the Queensland office, for nine successive years policy-holders have received rebates of 33⅓ per cent. of the premium paid, which, for the financial year ended the 30th June, 1953, amounted to £165,000. In fact, that really means that in the nine years, policy-holders have received free insurance for a period of three years. Substantial bonuses are also paid by that office in respect of its marine and other forms of general accident insurance. Therefore, I maintain, quite definitely, that if the State office is authorised to extend its activities, it will be able to render a service equally as good as that rendered by insurance companies, at a considerable reduction in cost to industry and private individuals.

As evidence of that, I might mention that when the local government authorities pool was established, the rates charged by the State office were approximately 20 per cent. below the tariff rates, notwithstanding which, over £8,000 was rebated to the local authorities to the 30th June, 1953. I understand that approximately £2,000 will be rebatable for the year ended the 30th June, 1954.

The State office has just launched a scheme to insure schoolchildren against accidents at a rate of 3s. 6d. per child, with a maximum of 10s. 6d. per family.

Hon. H. K. Watson: Is it doing that for the man going to and from his work as well?

The CHIEF SECRETARY: No, it is not; but later on I hope the hon. member will extend that privilege to the worker in another Act. I believe that the tariff companies' rate for a similar risk is £1 per head.

In view of what I have said and because the Bill meets the wishes expressed by many members last year, I trust that the narrow margin of defeat on that occasion will this time be converted into a substantial margin of victory.

It is my intention to place on the notice paper two amendments which were suggested in another place and which the Minister in charge of the Bill there promised to have examined. One will ensure that all excess moneys standing to the credit of the State office can be used at the discretion of the Treasurer. The other will remove words considered to be inadvisable, and perhaps redundant. These deal with contracts entered into by the office with insurers. Having given all the information concerning the Bill, I am sure that, on this occasion, we will be successful in getting it through this House. I move—

That the Bill be now read a second time.

On motion by Hon. H. Hearn, debate adjourned.

BILL—POLICE ACT AMENDMENT (No. 1).

In Committee.

Hon. W. R. Hall in the Chair; the Chief Secretary in charge of the Bill.

Clauses 1 to 6—agreed to.

Clause 7—Section 107 amended:

The CHIEF SECRETARY: During the debate on the second reading, Mr. Griffith drew attention to the possibilities of injury to adults and children from broken cool-drink bottles, particularly on beaches. The hon. member suggested that such carelessness might be made an offence under the Act, and that provisions might be made in this Bill for that purpose.

To my mind, whilst the proposal is meritorious, it hardly comes within the ambit of the Bill, which deals with vandalism only. The breaking of bottles, although a dangerous act, is not within the scope of vandalism as conceived in this measure. I have had this question examined by the legal officers of the Crown Law Department, who are of the same opinion.

They consider that the best method of controlling such an offence would be under the by-laws of the local authorities which control beach areas. As a result, I have drawn the attention of the Local Government Department to this contention. It agrees that local authorities have this power, but suggests that it would prove very hard to police. However, I will look further into the matter from the local authorities' point of view.

Hon. A. F. Griffith: If a boy with a shanghai breaks an electric light globe—

The CHIEF SECRETARY: That would be vandalism.

Hon. A. F. Griffith: Apparently the officers of the Crown Law Department do not think it is an act of vandalism if a boy throws a bottle against a wall and breaks it.

The CHIEF SECRETARY: Actually, he has not damaged any property.

Hon. H. Hearn: There are very few bottles which are not owned by some company or other.

The CHIEF SECRETARY: The breaking of those bottles would be regarded as an offence under another Act.

Hon. A. F. Griffith: What if a lad throws a bottle at a globe on an electric light standard and breaks it, or commits an action similar to that?

The CHIEF SECRETARY: If he damaged the light, that would be vandalism; but the mere breaking of the bottle would not be vandalism.

Hon. H. Hearn: Why would it not be? The bottle would be the property of some firm. Take a coca-cola bottle or a milk bottle, for instance.

The CHIEF SECRETARY: I do not know whether those companies would have the same power over their bottles as would brewing companies over theirs. I know that beer bottles are covered, but the breaking of them would not be regarded as an act of vandalism under the Licensing Act. The general impression is that the mere act of breaking an ordinary bottle is not vandalism; but if something were broken with the bottle, it would be. However, I am having the matter further examined by the Local Government Department from the local authorities' point of view. But unless an inspector were appointed, no local authority would have any chance of policing these matters.

Hon. A. F. Griffith: It is not a question of the local authorities policing such acts.

The CHIEF SECRETARY: I admit that most offences are handled by the police; but when the local authority is concerned, it has to do the policing.

Hon. A. F. Griffith: The increase in penalties under this Bill will apply only to those persons who are caught.

The CHIEF SECRETARY: Only those local authorities that have inspectors will have the chance of policing such matters. However, I have given the interpretation of vandalism; and, in the opinion of the Crown Law officers, the breaking of a bottle does not constitute vandalism.

Hon. A. F. Griffith: I do not propose to argue the point with the Chief Secretary because he has the Crown Law ruling. However, it does appear wrong to have an interpretation that goes so far; and yet, when a person breaks a bottle, no matter what its description, that act is to go unpunished because it is not regarded as vandalism. I think it is vandalism. I cannot understand the interpretation of vandalism given by the officers of the Crown Law Department. If a person goes to a beach or some other public place and deliberately breaks a bottle, leaving broken glass around, to the danger of the public, surely that is an Act of vandalism.

Hon. Sir CHARLES LATHAM: I do not know whether there is any power under any other statute to control such an act; but I remember an occasion when a boy who lived five miles out of town was going home from school and broke every bottle he saw on the main road itself. He did not break four or five bottles, but dozens of them; and a man had to be sent out to remove the broken glass because no motorist could travel with safety along the road. I think that is vandalism, and there ought to be some protection against that sort of thing. That boy was fined. I do not know under what statute.

Clause put and passed.

Title—agreed to.

Bill reported without amendment and the report adopted.

BILL—JURY ACT AMENDMENT.

Second Reading.

Debate resumed from the 5th August.

HON. L. A. LOGAN (Midland) [5.46]: I was severely taken to task by one or two women's organisations for some remarks which I passed when speaking on a similar Bill introduced by Mr. Parker last session. I have not altered my views since then, despite the fact that one lady wrote a letter to the Press boosting up the attitude of women in general, and basing her argument on what one particular woman did in the war. It is rather peculiar to generalise on the action of one person.

In introducing this Bill, the Chief Secretary said there was a considerable amount of pressure for the inclusion of women on juries. He stated that the Women's Service Guild was applying pressure. In my opinion, the Women's Service Guild represents a small minority of the women of Western Australia. From what I can gather it is doing a disservice to the women of this State in supporting the inclusion of women on juries. I have spoken to many women, particularly over the week-end, when I was fortunate enough on two occasions to speak to a gathering of women. I asked if any of them would like to serve on a jury, and the reply was in the negative. Those women had no desire whatever to serve on juries. So where pressure has been applied, it came from a minority group.

In my opinion, the very set-up of the Bill breaks right away from the jury system as we know it today. While that

basis is retained, we should stick to it. If we wanted to alter the basis, that would be a different matter. The basis today is that a cross section of the men in the community who are eligible to serve as jurors, are called up. But under this Bill, it is proposed that women shall have the right to decline service on a jury. They are exempted when certain kinds of evidence are to be given; when they are medically unfit; and under one or two other conditions. In my opinion, this exemption breaks right away from the basis of the jury system in vogue. Eventually we would finish up with only a few women, those who were desirous of serving on juries. Instead of having a cross section of women, we would have one section only.

In his speech, Mr. Baxter said he did not like the provisions as they were, but that if women were permitted to notify in writing that they desired to serve on juries, he would be agreeable. I think he would also agree that that would have the effect of breaking down the basis on which juries are empanelled today.

Member: Forty people are summoned at present to empanel a jury of 12.

Hon. L. A. LOGAN: Yes. But if the Bill is agreed to, 50 persons will be summoned. Surely that would tend to disorganise everything. I do not know how much is paid to persons summoned for service. If we are to call up 50 persons and take them away from industry, and then spend two or three hours on questioning and argument as to who should serve, half a day will be wasted for those 50. I do not believe that is necessary. I think, however, that the jury system as it is today is not functioning as it should. Probably the basis could be altered so that we would have a better reflection on some of the decisions that are made.

Hon. R. J. Boylen: That is what this Bill is trying to do.

Hon. L. A. LOGAN: No; it is not. I am afraid that on a few occasions, according to the evidence published in the Press—which I accept as accurate reports of what transpired—a verdict of not guilty brought in by the jury was not in accordance with the facts. A judge, or two justices of the peace and a magistrate, might do the job better. While the present basis for the calling up of jurors applies, we must fall into line with it. This Bill seeks to depart from that basis; therefore I must vote against it.

HON. W. R. HALL (North-East) [5.54]: I support the Bill for one reason: that I consider women should have the same right as men to sit on a jury. If women express a desire to sit on juries, they should be given that right. I have yet to discover any woman who desires to take the opportunity of such service. After a period of 30 years in all walks of life, I have yet to find one male who is happy to sit on a jury, or who desires to do so. People have disliked jury service for more reasons than one. One has been that in the past the payment for service on a jury has not been in proportion to the basic wage standard. When people were called to serve on a jury, they suffered a financial loss. Some have actually lost a certain amount of wages, and that has been a very sore point.

I can conceive of women called to serve on a jury in connection with a sordid case, being reluctant to do so. On the other hand there are cases where the advice and thought of a woman juror might be of advantage to her fellow jurors. There are also many other cases where it would not be proper to empanel women as jurors for reasons other than those I have enumerated.

The present jury system is becoming something of a farce. The other day a relation of mine complained that he had been called to serve on a jury for the second time in three years. That does not seem right. With such a huge population in Western Australia, there should be a longer period in between service. From inquiries I have made, people without criminal convictions and people of good fame are selected for service. At the same time, because we live in a democratic country, women should be given the same right to serve. I gather that the names of those selected are taken from the rolls of the Legislative Assembly. With such a huge number on the rolls, it seems out of all proportion that a person could be called on to serve twice in three years.

Hon. E. M. Davies: If we put a few women on juries, men will not be called up so often.

Hon. W. R. HALL: That remark gives me food for thought in this regard: Just how many people are called up by the courts for the cases listed for hearing? I have heard on good authority that 50 to 60 people eligible for service are called up each time. I do not know how many women will be called up at one time for selection on a jury, taking into consideration those who may be challenged; those who are ineligible; and those who do not desire to serve.

Hon. L. Craig: You really are opposed to women sitting on juries?

Hon. W. R. HALL: In some respects very definitely; but equal rights should be given to men and women in this matter on juries. Let women have the opportunity of sitting on juries. But how many wives of workers would elect to do so? How many would desire to leave their husbands and children for over 24 hours sometimes, and be locked up for two or three nights? When this happens, who is to look after the husband and the children during the absence of the wife? Who is going to feed them? What about the household duties and the cooking? There will be many

difficulties unless some provision is included to discriminate between those who volunteer for service and those who are not desirous of sitting on juries.

Hon. H. K. Watson: Can you imagine any male or female agreeing to service on a jury?

Hon. W. R. HALL: No, with a few exceptions. As I said, I have yet to meet a man who is happy to serve on a jury.

Hon. G. Bennetts: Men will be happy to serve when women are eligible to sit on juries.

Hon. W. R. HALL: There is a certain section of women desirous of serving on juries; but taken by and large, women who have family responsibilities will not desire such service. However, as there are certain people who are desirous of serving on juries, I am quite prepared to allow them to do so. If they have a keen interest in our democratic way of life and the proceedings in our courts, by all means let them serve.

I cannot believe that we shall find too many women who are rearing a family or are engrossed with other domestic responsibilities being desirous of serving. I intend to vote for the second reading of the Bill for one specific purpose; namely, to allow those women who desire to serve to do so. From time to time cases will come before the court where a mixed jury may create some difficulty, but no doubt that will be taken into consideration.

I cannot speak for the jury systems in other States, but I do say that the system here has to some extent become a farce. At the same time, I would not be one to put a sprag in the wheel by denying women the right to serve if they so desire. They regard themselves as part and parcel of our democratic system, and so they should be permitted to serve on cases where they might reasonably do so.

HON. R. F. HUTCHISON (Suburban) [6.2]: I have taken considerable interest in this Bill, not for personal reasons, but because the right to serve on juries is a matter of principle with women, who maintain that they should be placed on an equality with men and given the same rights as men. Women are not now regarded so much as a dependent section of the community, and so they are demanding to share civic rights with men. It may seem horrible to men that women should be brought into contact with disgusting evidence such as is produced in certain cases, but to hold that view appeals to me as being wrong thinking. It should be borne in mind that women are asking to share these duties.

After all, we are the mothers of men, and are ready to share all the obligations of society. Women have a full appreciation of the faults and failings of human nature. The attitude men adopt regarding protection of women should not be distorted to the point of objecting to women standing up to the responsibilities of society as a whole. Some of the cases that come before juries shock the feelings of men, too. I have known a man to be really upset after listening to some of the cases; but why should they be more shocking to women, when matters of human life and integrity are involved?

Life itself is a partnership betwen men and women; and just as both sexes share the homes, the trials and tribulations of life and the bringing up of families and all that, so we consider that we should share the duties when it becomes a matter of serving in court. A women has a definite viewpoint that matters. Somebody has to listen to the ills of life, and women are just as capable as men of clear thinking and just thinking. Women ask for equality of opportunity; there has been equality of sacrifice of which women proved themselves quite capable in the two world wars, and so there should be equality of duty. In fact, a balanced society is what we ask for; it is the rightful heritage of women.

Many of the objections to women serving on juries have emanated from men simply because they have not thought of things in this way, and have not considered women's viewpoint. In New South Wales, women are eligible to serve on juries, and Rule 6 empowers the person forming the jury panel to exempt women from attendance if satisfied that, owing to pregnancy or other feminine conditions, they will be unfit to serve. In England, women have been serving on juries since 1919, when the Sex Disqualification Act (Removal) was passed, and it is about time that we came into line with the modern ideas.

Women wish to serve in this way because they want to see justice done; and there are many cases at which I would not shudder any more than would a man in doing my duty. In many cases, women have a better understanding of the position than have men. For instance, there is the case of the girl involved in concealment of birth; and on such a case I think men would appreciate the fact of women serving on the jury.

Women are taking their places in the public life of the State. I am inclined to call that action courageous, because it is not always an easy part. I am endeavouring to emphasise that this is a matter of principle, and that men and women are partners in life. Women in the public service are still called upon to resign after marriage, and that is another injustice to women.

Of course, there is a logical side to this question, in that women rearing families are not in the position to serve on a jury, not because they would be unprepared to serve, but because they are doing their duty to the country in another way. Consequently, this is a fact that must be

recognised. Women who are rearing families should not be called upon to serve unless on some particular occasion they express the desire to do so. When women are suffering disabilities, they should not be asked to serve. Men are excused for reasons of ill-health, etc. I consider that women have a definite contribution to make to the legal side of life. We already have women solicitors and justices, and I believe that if we had women judges, conditions would be better. Naturally there is always a lot of prejudice when anyone proposes the breaking of long-standing precedents. New South Wales has been broad-minded enough to acknowledge the principle at stake, and we should do the same. I have mentioned that women have been enrolled in the services in wartime. If another war occurs, they will be again accepted and will be prepared to shoulder their responsibilities.

Women being the mothers of the race have a definite contribution to make to society, and I trust that the Bill will be passed in order that we may make this progressive move. It is not as if women jurors were not recognised elsewhere. In England women jurors are accepted as a matter of course. I do not claim that all women are endowed with the same attributes.

Hon. N. E. Baxter: What is the qualification for women jurors in England?

Hon. R. F. HUTCHISON: The same as is proposed here. I have no desire to labour the question, but would like to mention a case that will probably come before the court here; and I venture to say that no man would fully understand the point of view of the girl concerned in that case. This is where women could make a contribution. We are just as capable of judging between right and wrong as are men, and I hope that the Bill will be passed.

HON. G. BENNETTS (South-East) [6.13]: I support the second reading for the reason that the Bill contains a provision whereby a woman may obtain exemption from serving on a jury because of ill-health or family exigencies. With Mrs. Hutchison, I agree that women are capable of taking their part in these duties equally with men. Women have proved themselves in all walks of life including war service; and in the sports arena, we have seen in the Empire games how prominent a part women are taking. Only in the last few years have we heard of women contesting running and jumping events, and they have been able to show that in this direction they are the equal of many men.

If women were permitted to serve on juries I believe they would be able to exercise sound judgment in important cases as well as in cases of less importance. Women serving on a jury might prove to be an asset because I think that the men would take notice of their views. I am a great believer in the principle of giving women the right to vote for the Legislative Council.

Hon. Sir Charles Latham: That does not come into this Bill.

Hon. G. BENNETTS: I support the second reading.

Sitting suspended from 6.15 to 7.30 p.m.

Hon. G. BENNETTS: I shall support the Bill because I think that the woman of today can take her place anywhere with the male in all walks of life. She has a rough spin in the home. She has to battle and look after the requirements of her family. I think she is entitled to take her place on any public board or committee, as well as a jury.

HON. A. F. GRIFFITH (Suburban) [7.31]: The application of the Bill is very similar to that of the one that was before the House last year, the only difference being that the measure then gave women the right to apply to serve on juries, whereas the present one makes it obligatory for them to do so unless they apply for exemption.

All the remarks that have been made so far have centred around the point of establishing the right of women to serve on a jury. I do not think anyone has any doubt about a woman's right to do so, and I do not believe that this business about the equality of sexes is at all relevant to the issue. We all know that, because of modern trends, the female of the species is becoming more independent and is playing her part in public life more than she did previously.

Most of the emphasis in this debate has been placed upon the attempt to establish the fact that a woman should be entitled to serve on a jury. No one doubts that she should be entitled to do so if she wishes; but I am doubtful whether the great majority of the women in this State would be at all grateful to us, the members of Chamber, if we passed a Bill making it obligatory for them to serve on a jury unless they applied for exemption. The Bill provides that women to serve on juries shall be those who are entitled to vote for the Legislative Assembly and who are of good fame and character.

Hon. Sir Charles Latham: And who are 21 years of age and not more than 60.

Hon. A. F. GRIFFITH: That is so. What strikes me straight away is that every woman eligible to be enrolled on the Legislative Assembly rolls would immediately become a person liable to be called up for jury service, so the first thing the Government would have to do would be to put on a small army of clerks to deal with the notifications from those women who did not want to serve on juries.

When I spoke on the measure that was before the House last year, I said that I had not received a single intimation from any woman in my province that she desired to serve on a jury. The position has not changed. I do not think there is any public interest in the Bill; and I do not think there is any public demand, generally, for women to serve on juries. If any member of this House would like to accompany me some time tomorrow to some place in Hay-st. and carry out a Gallup poll there by stopping one woman in every 20—or any other given number—and asking her, politely, whether she desired to serve on a jury or otherwise, I would be glad to go with him.

Hon. R. F. Hutchison: You would not get men to do that either. It is a duty that nobody wants to do.

Hon. A. F. GRIFFITH: Nobody wants to do what?

Hon. R. F. Hutchison: Act on a jury. Men do not like it. It is a citizen's duty.

Hon. A. F. GRIFFITH: Yes, and it is a duty which I think men are more capable of performing than women; because, whilst they may not like to serve on a jury, they are prepared to do so, but I believe that the great majority of women would find such service abhorrent. I am quite satisfied that if any person were to go home and say to his wife, "From tomorrow onwards you are going to be liable to serve on a jury," she would not receive the information with any relish.

However, I make the offer I have put forward to anyone who would like to come with me to see whether there is any public opinion at all about this matter. Because I do not believe there is any public opinion about it; because I do not believe that there is any demand for legislation of this description; and because I do not feel that the majority of women would thank the members of this Chamber for passing legislation of this nature, I do not propose to support it.

On motion by Hon. C. H. Simpson, debate adjourned.

BILL—REPRINTING OF REGULATIONS.

Second Reading.

Order of the Day read for the resumption from the 5th August of the debate on the second reading.

Question put and passed.

Bill read a second time.

In Committee.

Hon. L. A. Logan in the Chair; the Chief Secretary in charge of the Bill.

Clauses 1 and 2—agreed to.

Clause 3—Reprinted regulations to include amendments:

Hon. Sir CHARLES LATHAM: Does this mean that in the future all these regulations will be reprinted with the amendments? When we were inquiring into the Police Act, we found that there were no copies of the regulations available, even at the Government Printing Office. I think the first responsibility of the Crown Law Department should be to see that regulations are available to the public, because one can get into serious trouble under a regulation without even being aware that it exists. We have far more regulations than statutes; and quite a number are obsolete, and others are not in print. In other cases the amendments are so extensive that it is almost impossible to understand what they mean. The other day I found that some regulations had been changed four or five times.

The CHIEF SECRETARY: This is to give power to reprint regulations when that is necessary.

Hon. Sir Charles Latham: There is power to reprint them now, but I understand that somebody else has had to do it. Some officers have gone along and got a reprint.

The CHIEF SECRETARY: That was the procedure in the past; and because of it, quite a number of mistakes occurred in the reprints. Now the department has to ask the Minister to authorise the reprint, and the responsibility is on the Minister to see that it is correct. Reprints will be made where necessary.

Clause put and passed.

Clauses 4 to 9—agreed to.

Clause 10—Reprinted regulations not to be tabled and may be amended:

Hon. Sir CHARLES LATHAM: If, during the reprinting, the regulations are amended, surely they should be submitted to the Chamber in the same way as other amended regulations. I want an assurance from the Minister that if the regulations are amended they will be laid on the Table.

The CHIEF SECRETARY: It is not intended that the regulations shall be amended except where corrections are necessary.

Hon. Sir Charles Latham: That is all right.

Clause put and passed.

Title—agreed to.

Bill reported without amendment and the report adopted.

BILL—CORONERS ACT AMENDMENT.

Second Reading.

Debate resumed from the 5th August.

HON. E. M. HEENAN (North-East) [7.48]: I got the adjournment of the debate in order to look through this short Bill, and I am pleased to be able to give it my support. There are only two amendments of any consequence, and the others follow on those amendments. As the Chief

Secretary pointed out quite clearly, coroners have the right to commit persons for trial on a charge of wilful murder, murder, or manslaughter; that is, if the evidence placed before them at coronial inquiries suggests that such a course should be taken.

However, in 1945, the Criminal Code was amended, and a further offence was added, and a man could be sentenced to five years' imprisonment if, through his negligence or careless driving, he caused the death of another in circumstances which fell short of manslaughter. The amendment in the Bill will give coroners the right to commit anyone on a charge of reckless or dangerous driving.

Hon. N. E. Baxter: Previously they have been charged with manslaughter, have they not?

Hon. E. M. HEENAN: Yes. Of course, a coroner might feel that the evidence did not justify his committing a man for trial on a charge of manslaughter; but he might think it warranted his committing the man for a lesser offence. At present, the Coroners Act does not give a coroner power to do that, and to provide that power is the main purpose of the Bill. There is another minor amendment, which I do not propose to discuss. I support the measure.

Question put and passed.

Bill read a second time.

In Committee.

Hon. L. A. Logan in the Chair; the Chief Secretary in charge of the Bill.

Clauses 1 to 3—agreed to.

Clause 4—Section 15 amended:

Hon. Sir CHARLES LATHAM: When the Minister introduced the Bill, he told us that it provided that if a person was charged with reckless or dangerous driving, the deposition of a person since deceased, or out of the State, or ill, and unable to travel, would be accepted by a superior court. This is rather serious because a person involved in an accident might be in such a condition of nervous strain that he might not realise the statements he was making. In such circumstances, we should have corroborative evidence. I think there is a grave danger in placing such a provision on the statute book. A person might be involved in an accident, taken to hospital and be in such a condition that he is not likely to live. Depositions could be taken at the hospital and used in evidence. That is most unusual, and I do not know that it is provided for in any other legislation. As it stands, I must vote against the clause.

Hon. J. G. HISLOP: If a person is killed as a result of an accident, there is always the possibility that the offending person could succeed in liberating himself from all charges because of the death of that vital witness. Also, as Sir Charles Latham pointed out, there is the possibility of evidence being given when a person is not in a fit mental state to give it. The Chief Secretary might consider the suggestion that when evidence is taken from such people, the medical practitioner present could examine the person and state whether he is in a fit condition to make a deposition. No medical practitioner could state that the evidence given was correct; but we should have some safeguard to ensure that the person making the deposition is in a fit condition, both mentally and physically to do so.

An individual who is injured in an accident is hurt, usually, both mentally and physically and may be in such a condition that he cannot be regarded as a reliable witness, if his evidence is taken while he is in that state. I realise that in some cases it is necessary that this evidence be accepted; but in fairness to the other party, some evidence should be given, by an unbiassed person, that the person making the deposition is in a fit state of mind to do so.

The CHIEF SECRETARY: I do not think members have read the clause properly.

Hon. J. G. Hislop: It is accepted as evidence.

The CHIEF SECRETARY: Yes; but there is ample safeguard in the wording of the clause.

Hon. J. G. Hislop: Unless the inquest is held at the witness's bedside.

The CHIEF SECRETARY: The coroner must sign the deposition.

Hon. J. G. Hislop: I agree.

The CHIEF SECRETARY: What greater safeguard can we have than that? The coroner certifies that the depositions are all right; and I do not think any certificate by a medical practitioner, or anybody else, would carry any more weight than the signature of the coroner. A coroner would not take a deposition from a person who was not in a fit state to give it.

Hon. H. K. Watson: Yes, a dying person. I would say that the coroner would take it for what it was worth.

Hon. L. Craig: He is not worried about the authenticity of it. The court would determine the value of that. I think this is quite safe.

The CHIEF SECRETARY: That is the point. The person concerned could not give better evidence if he were in court.

Hon. Sir Charles Latham: It all depends on the condition of the person at the time.

The CHIEF SECRETARY: I would prefer it to be cushioned on to one person—namely, the coroner—rather than have anybody else certifying. There could be a large number of people who would be able to get away with it easily, particularly

in the case of a person who had died since action took place. I think the Bill contains the protection needed.

Hon. E. M. HEENAN: I agree with the Chief Secretary. An inquest does not take place until a person dies. A coroner then sits to ascertain the cause of death, and it is the depositions he takes at that inquiry which it is now proposed to make available to a higher court in the event of any witnesses subsequently dying, disappearing, or being unable to travel.

Similar provision already exists in the Justices Act, where someone may be charged with a serious offence; the charge is heard in the lower court, the person gives evidence; and that person subsequently dies, or goes away to a place from which it will be difficult for him to return and give evidence. In cases like that, and they are only rare, the depositions he gave in the lower court where he was sworn and probably cross-examined can be given in the higher court.

The value of such evidence is always diminished because courts are reluctant to place full credence on testimony which is given in such circumstances. Courts like to have the individual before them. It does sometimes happen that a witness gives evidence in the lower court, or at a coroner's inquiry, and subsequently dies before the charge is heard some months later. The law has to make provision for the evidence of such person, in the interests of justice, to be placed before a higher court; and that is the only way it can be done.

Hon. J. G. HISLOP: Might I ask Mr. Heenan through you, Sir, whether it is correct that the evidence of the person killed as a result of the accident is not taken?

Hon. E. M. HEENAN: That is so. There is no inquest until the person dies.

Hon. H. K. Watson: Under what circumstances do they take evidence?

Hon. E. M. HEENAN: When there is likely to be a charge of murder or some other serious charge, and a person is in imminent danger of death his dying depositions can be taken. I think the Justices Act provides for that.

Hon. Sir CHARLES LATHAM: I visualise the position of a person being on his deathbed and the police feeling that they must have a statement from him. They take the statement, and at the coroner's inquiry that is given as evidence before the coroner. There is no chance of questioning it; it is accepted at its value by the coroner. In his defence, the person concerned might raise objection to the condition of the health of the person when the deposition was taken, and it would be upheld if there was any doubt.

It appears to me that when the coroner gives his decision, and it has been submitted, then the superior court will have to take into account the statement made by the dead person whom there has been no opportunity of cross-questioning. People who are seriously ill are not generally cross-questioned. I think it is a dangerous provision, and we should not knowingly place a person in the position of being charged with a serious offence merely because we accepted hearsay evidence. The courts are reluctant and will not allow hearsay evidence to influence them.

Hon. J. G. Hislop: This could be the second injured person in the accident.

Hon. Sir CHARLES LATHAM: That is so. I would like to have a talk with the Crown Law officers before I was satisfied that I was doing the right thing.

Hon. L. CRAIG: I think the interpretation placed on it by the Chief Secretary is the right one. This does not deal only with people who are dead or too seriously injured; it deals with anybody who has given evidence at the coroner's inquest and who, for some reason, is unable to attend court.

Hon. Sir Charles Latham: Through death?

Hon. L. CRAIG: No.

Hon. Sir Charles Latham: It says so.

Hon. L. CRAIG: Through death or absence.

Hon. Sir Charles Latham: It may be a person who is injured.

Hon. L. CRAIG: The Bill says anybody who has given evidence, or who may be dead, or too ill, or absent from the State; and on the signature of the coroner, the evidence given at the coroner's inquest shall be received as evidence at the court.

Hon. N. E. Baxter: "May" be, not "shall" be.

Hon. L. CRAIG: If the court agrees that the evidence is acceptable, then the court may accept the coroner's signature that the evidence is true, and that it is the same as that given at the inquest. There is nothing significant about this. The value placed on the evidence shall be at the determination of the court. It means that they shall not place their own value on it, but that the coroner's signature shall be accepted that the evidence is in accordance with what it was at the inquest.

The CHIEF SECRETARY: I could understand the opposition if this was something we were trying to put into the Act for the first time. It is exactly similar to the provision contained in the Justices Act. This has been pointed out by Mr Heenan, but it would bear repetition. The relevant section of the Justices Act provides, in effect, that the depositions of any witnesses are admissible in evidence upon the trial of any person charged, if it is proved that such witness is dead, out of the State, or unable to travel. In addition to making the provision in the principal Act clear, this amendment will make

it conform with that in the Justices Act. We have not heard any weaknesses mentioned since this provision was inserted in the Justices Act.

Hon. L. Craig: It is to avoid delays.

The CHIEF SECRETARY: That is so; and it is also to prevent people from getting out of cases in which they might be found guilty. This has had a very lengthy trial in the Justices Act, and no complaints have been made against it. I am surprised at the opposition.

Hon. Sir Charles Latham: It is not opposition; we are only asking for clarification.

The CHIEF SECRETARY: There is no necessity to alter the amendments proposed in the Bill, and I am not sure whether the opposition is not due to the fact that the measure is No. 13 on the notice paper!

Hon. Sir Charles Latham: There is no opposition.

Clause put and passed.

Clauses 5 to 9, Title—agreed to.

Bill reported without amendment and the report adopted.

BILL—MATRIMONIAL CAUSES AND PERSONAL STATUS CODE AMENDMENT.

Second Reading.

Debate resumed from the 4th August.

HON. C. H. SIMPSON (Midland) [8.14]: I have no intention of opposing the Bill. It is a clear and straightforward measure. There may perhaps be a difference of opinion, on religious or other grounds, in regard to the first amendment covered by the Bill, but I am in sympathy with all that the measure aims to carry out as far as the second amendment is concerned.

The title of this measure is another name for the divorce code. The Bill sets out to amend paragraph (k) of Section 15 of the principal Act by giving certain discretion to the judges in regard to one of the causes that may be claimed as grounds for the annulment of a marriage. One of the grounds set out in paragraph (k) is physical incapacity or incapacity arising from nervousness or hysteria or invincible repugnance of the plaintiff or defendant to consummate the marriage, or the wilful refusal of the defendant to consummate the marriage, provided that—

(i) action shall not be commenced until the expiration of three months from the marriage;

(ii) a marriage shall not be dissolved on the ground of such incapacity to consummate—

where the action is not commenced within three years of the date of the marriage.

This visualises a circumstance where either party may, through ignorance of the law, not submit an application within the prescribed period, in which case the proposed amendment gives the judges discretionary power, after taking all the circumstances of the case into account, to extend that period. As I am a great believer in the competence of the judiciary, and in their exercise of discretionary power, I have no hesitation in agreeing to that power being placed in their hands.

The second amendment covers the repeal of Section 63 of the principal Act. I understand it has been inserted in the Bill at the request of the judiciary. The section requires the Chief Justice to furnish a report on the working of the Code at the expiration of every five years. The judges point out that they would be disinclined to furnish recommendations of a substantive nature, because they believe it is the function of Parliament rather than of the judiciary to suggest any amendment of that nature, and they are only concerned with anomalies in law which might arise. They feel that these matters could be taken up without any obligation under the Act in the ordinary course of events by discussions with the Minister for Justice or the Attorney General as the case might be. As their request seems reasonable, I am quite ready to agree to the repeal of the section. By and large, I am prepared to accept the measure, which I think is quite in order.

It is interesting to note, in passing that Section 15 of the Act provides for 14 different clauses for dissolution of a marriage, including adultery, attempted murder, specified terms of imprisonment, drunkenness, desertion, and failure to provide maintenance. The clause dealt with by the Bill is failure to consummate a marriage, and the object of the measure is to give the judges discretionary power to extend the period of application for divorce in certain instances. The second amendment, as I have indicated, is to relieve the judges of the statutory obligation to furnish a certain return. I support the second reading.

Question put and passed.

Bill read a second time.

In Committee.

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

BILL—STATE HOUSING ACT AMENDMENT.

Second Reading.

THE CHIEF SECRETARY (Hon. G. Fraser—West) [8.22] in moving the second reading said: This Bill seeks to amend the State Housing Act to provide for the institution of a new scheme under which applicants can be assisted to erect

homes for themselves. Its principal purpose is to give help to those who are prepared to do something to help themselves.

Experience has shown that there are many people in the lower income groups who, whilst anxious to proceed with the erection of their own homes, have not sufficient money to do so, even when what they have is added to the sum which can be raised from a financial institution, such as a bank, insurance company, or building society. Because of this fact, many of these people are filled with despair, and are compelled to join the lists of those seeking rental homes. The new proposal is to enable the Housing Commission to supplement the money which an applicant has on his own account, in addition to the money he can raise in the ordinary way.

It may so happen that, in the great majority of cases, supplementary assistance averaging about £500 in each case will suffice. Apart from other factors, this will have the effect of making the Housing Commission's money go further inasmuch as, instead of the commission having to provide all, or practically all, the money required to finance the erection of a house, only a fraction will be necessary, as financial institutions will provide the greater part.

To take a concrete case: An applicant may possess £500 and the amount he can obtain from the Commonwealth Bank for the erection of a timber-framed house is £1,350. The total of £1,850 is, of course, insufficient for the erection of a reasonable home; but with the Housing Commission making available, say, an additional £500, the person would be in a position to erect his own house. The Bill provides that the supplementary assistance to be rendered by the State Housing Commission may be made by way of second mortgage or by guarantee to the financial institution or lender.

There are several limitations in the provisions of the Bill. One is that the scheme shall be confined to those who come within the present definition of "worker" appearing in the Act. Under the definition, a worker is one whose income does not exceed the sum of £750 subject to variations of the basic wage since the 1st November, 1950, and subject to an additional amount of £25 of income in respect of each child under 16 years of age.

The basic wage on the 1st November, 1950, was £7 6s. 6d. a week, and today it is £12 6s. 6d., or an increase of exactly £5. Therefore, at the moment, under the definition, a worker is one whose income does not exceed £1,010, in respect of which overtime is not included. The £25 additional income in respect of each child will still apply.

The limitation of the scheme to a worker is deemed necessary because there are so many within that income bracket who require assistance, as is borne out by the fact that there are at the moment more than 2,000 outstanding applications by people who desire to purchase homes under the State Housing Act; that is, under the old Workers' Homes Act. It will be time to give consideration to extending the concession when there is evidence that this can be done.

The Bill sets out that assistance will be granted to finance the erection of a house to a maximum cost of £3,000. This should be ample for the purpose, particularly when it is recalled that £2,500 is the financial limit for State Housing Act homes under the conditions of the present Act. This sum should prove ample for the purpose, especially when one remembers that the State Housing Act passed in 1946 superseded the Workers' Homes Act, the title of which emphasised the very purpose of the scheme.

A further provision is that not more than 25 per cent. of the funds made available to the State Housing Commission by the State Government shall be used for the purpose of the new scheme.

Hon. H. K. Watson: Is that apart from the guarantee? The guarantee would not be treated as expenditure.

The CHIEF SECRETARY: That is so. The actual expenditure would be 25 per cent. of the money. The purpose of the provision to which I have been referring is to ensure that the greater part of the commission's finances will be used to assist in the acquisition of homes by those people for whom the Act was originally intended —namely, those who are able to find only the smallest deposit. At the present time the commission accepts deposits from these people as low as £5. The 25 per cent of funds to be used under the new scheme, because of the lesser amount involved in each transaction, should go much further than appears on the surface, more particularly if assistance is granted by way of guarantee, when it will probably be found that only a percentage of the amount guaranteed will need to be set aside in a reserve fund, the balance being available for the assistance of further cases.

Hon. H. K. Watson: In the case of a £3,000 house, what would be the minimum amount required from the person building?

The CHIEF SECRETARY: He would at least have to make up the difference between the £2,500 maximum advance, under the Act, and the £3,000. So in the first place, assuming that he could get the £1,350 —the highest amount which can be obtained on a timber-framed house from the Commonwealth Bank—and had over £500—

Hon. H. K. Watson: The Housing Commission can advance up to £2,500.

The CHIEF SECRETARY: Yes, under the State Housing Act. That is the maximum advance that could be made.

Hon. C. W. D. Barker: He would have to have his own block of land.

The CHIEF SECRETARY: In these cases, I suppose that would be necessary, because financial assistance could not be obtained from other institutions unless the individual had a block. Under the State Housing Act, it is not necessary to have a block of land if building is done under the leasehold section, under which most of the homes are built. Later on we may find that there is a maximum that would be advanced under the scheme.

Hon. H. K. Watson: I think this scheme is separate from the other scheme.

The CHIEF SECRETARY: Yes, entirely separate. There were quite a number of people who did not want to come under the old scheme and borrow the full amount. There were two sections under the old scheme. One was the leasehold section and the other was that under which a person applied for a loan. This provision really comes under that section.

Hon. H. K. Watson: I think this would be separate again from both of those.

The CHIEF SECRETARY: It would be separate, but it would be on similar lines to the provision covering the borrowing powers. Under the borrowing provisions of the old Act one could obtain up to £2,500. That would not be secured under this provision because more than half the amount one would require from the Housing Commission for a start would be eliminated by the £1,350 that would have to be borrowed from another financial institution. I think that because of this addition, the money will go much further. I am assuming also that this provision will be utilised to a great extent by self-help builders.

There is not a great deal of detail in the Bill, because the Government felt it would be preferable for the scheme to have some flexibility so as to enable the Housing Commission—in the light of experience—to alter its administration of the proposals from time to time without continued reference to Parliament. With this in mind, the scheme could conceivably operate on the basis of an applicant providing 10 per cent. of the cost of his proposed house, the lending authority providing its usual figure, and the State Housing Commission supplying the balance required, either by guarantee or second mortgage, and at a rate of interest equal to the first mortgage—the period of the payment to be either concurrent with the first mortgage or possibly instalments to be met after settlement of the first mortgage.

The State Government feels that private individuals should be given every encouragement to erect their own homes, and I am certain there will be general agreement with that objective.

There are two other amendments contained in the Bill which do not bear direct relationship to the new scheme. One is to allow an applicant to join with his spouse in entering into a business arrangement with the Housing Commission. At the present time the applicant only is associated with the transaction, and this, of course, can cause complications in the event of the death of the breadwinner, or in the case of separation of the persons concerned.

That has happened on a number of occasions where the family is still living in the home and the husband has perhaps flitted off to some other part of Australia. Complications have arisen there under the Act as it stands at present, because the husband is the one who has made the contract with the Housing Commission and is virtually the owner of the property as far as the commission is concerned.

Hon. L. Craig: Is it not a common practice for husband and wife to enter into the contract jointly?

The CHIEF SECRETARY: Yes, it is becoming more common. The war service homes authorities are now encouraging joint tenancies, while originally it was only the ex-service man himself who was allowed to borrow the money. The new provision is based on the Act governing war service homes.

The other amendment is of a minor nature affecting the internal book-keeping system of the Housing Commission, and seeks to write into the Act a procedure which it has been found necessary to apply.

When this measure comes into operation, I am certain it will be welcomed by many hundreds of people who are in desperate plights today. This is evidenced by the fact that there have been very many inquiries at the State Housing Commission since the outline of the scheme was announced just recently. I feel that this is a very worthy measure, and I am confident that this Chamber will raise no objection to its provisions. I move—

That the Bill be now read a second time.

On motion by Hon. A. F. Griffith, debate adjourned.

House adjourned at 8.35 p.m.