

# Legislative Assembly

Thursday, the 10th September, 1964

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The SPEAKER (Mr Hearman) took the Chair at 2.15 p.m., and read prayers.

### ADDRESS-IN-REPLY

#### Acknowledgment of Presentation to Governor

**THE SPEAKER** (Mr. Hearman) : I desire to announce that, accompanied by the member for Mt. Lawley (Mr. O'Connor) and the member for Roe (Mr. Hart), I waited upon His Excellency the Governor and presented the Address-in-Reply to His Excellency's Speech at the opening of Parliament. His Excellency has been pleased to reply in the following terms:—

Mr. Speaker and Members of the Legislative Assembly: I thank you for your expressions of loyalty to Her Most Gracious Majesty the Queen and for your Address-in-Reply to the Speech with which I opened Parliament.

### ESPERANCE BREAKWATER CO. PTY. LTD.:

#### Source of Information Supplied by Minister: Personal Explanation

**MR. WILD** (Dale—Minister for Works): Yesterday afternoon the Deputy Leader of the Opposition posed a question concerning information supplied in connection with the Esperance Breakwater Co. Pty. Ltd., and I said off the cuff that I thought the information had been obtained by my office from Mr. Hanson, who is the liquidator. I have since discovered that the information was not obtained from Mr. Hanson, but from Mr. Pearce, who is one of the directors of the Esperance Breakwater Co. Pty. Ltd.

## QUESTIONS ON NOTICE

### BROOKTON POLICE STATION

#### *Provision of Courtroom*

1. Mr. GAYFER asked the Minister representing the Minister for Justice:

- (1) As renovations are to be carried out to the Brookton Police Station and quarters early in 1965, is it proposed to add or otherwise provide a suitable courtroom?
- (2) If not, why not?

Mr. COURT replied:

- (1) Not at present.
- (2) The amount of loan funds available for works of this nature each year is very limited and the needs of the various country towns must be carefully weighed before allocating the funds in order of priority. An investigation will be made as to whether the volume of police court charges dealt with at Brookton would warrant the provision of court facilities in the near future.

### POLICE MOTORCYCLE PATROLS

#### *Cost of Maintenance and Salaries*

2. Mr. CROMMELIN asked the Minister for Police:

- (1) What was the total cost including maintenance and salaries for the police motorcycle patrols for the years ended the 30th June, 1963 and 1964?

#### *Fines Imposed*

- (2) What was the amount of fines exclusive of parking offences in the metropolitan area for the same periods?

#### *Number in Use*

- (3) How many motorcycle patrolmen were in use at each of the same periods?
- (4) Is it intended to increase this number this financial year; if so, by how many?

Mr. CRAIG replied:

(1)	To the 30th June, 1963 £	To the 30th June, 1964 £
Motor vehicles ..	16,379	14,567
Salaries and allowances ....	114,065	132,661
	<u>£130,444</u>	<u>£147,228</u>

- (2) Amount of fines £136,073 £138,311
- (3) Motorcycle Patrolmen ..... 77 87  
In both instances these figures include administrative sergeants and men at traffic branch offices and on plain clothes patrol.
- (4) Yes, by 10 men.

## JOINT TENANCIES

### *Assessing of Probate and Succession Duty*

3. Mr. EVANS asked the Minister representing the Minister for Justice:

- (1) Is it the present practice of the Commissioner of Probate Duties in estimating duty payable on a deceased person's estate under section 76 of the Administration Act, 1903-1963, in a case in which the joint tenant who dies had paid or contributed the greater amount towards the purchase or investment constituting the joint tenancy, to assess half of the value of the beneficial interest which accrues by survivorship to the other joint tenant?
- (2) In the circumstances outlined in (1), is it the practice of the commissioner to also assess for succession duty the surviving joint tenant on the difference in value between half the value of the beneficial interest accruing by survivorship and the amount paid or contributed by the surviving joint tenant towards the purchase of the property constituting the joint tenancy?

Mr. COURT replied:

- (1) If it is claimed and proved to the commissioner's satisfaction that deceased contributed only a certain proportion towards the purchase or investment, then only that proportion of one-half of the value of the joint asset is assessed in deceased's estate.
- (2) In the circumstances outlined in (1) the balance of the one-half of the value would be assessable for succession duty.

4. *This question was postponed.*

## OIL

### *Location in Commercial Quantities*

5. Mr. GAYFER asked the Premier:

- (1) Has oil been located in commercial quantities in any well in Western Australia?
- (2) If so, where?

Mr. BRAND replied:

- (1) and (2) Oil has not yet been located in commercial quantities but recent discoveries tend to make the future of oil exploration in Western Australia much more promising.

## WATER SUPPLIES FOR GRASS PATCH

### *Commencement of Work*

6. Mr. MOIR asked the Minister for Water Supplies:

- (1) Has the Government decided to provide a water supply and reticulation service for the town of Grass Patch this financial year?
- (2) If so, when will the work commence?
- (3) If not, when can it be expected that this service will be provided?

Mr. WILD replied:

- (1) Yes.
- (2) and (3) Within the next two months.

7. *This question was postponed.*

## SWAN RIVER RECLAMATION

### *Area Required to Extend Road System*

8. Mr. GRAHAM asked the Minister for Works:

From Map No. 27 of the Metropolitan Region Plan 1963, what is the area of the Swan River which is shown as reclaimed for purposes associated with extensions of the road system at the northern end of the Narrows Bridge eastward from Barrack Street jetty?

Mr. WILD replied:

The area as shown on Map No. 27 which may have to be reclaimed at some time in the future for purposes associated with extensions of the road system is 40 acres.

## RAILWAY BRIDGE AT NORTH FREMANTLE

### *Provision of Double Standard Gauge Tracks*

9. Mr. TONKIN asked the Minister for Railways:

- (1) Has the new railway bridge at North Fremantle been constructed to provide a double track of standard gauge railway?
- (2) If "No," why was it not so constructed?

Mr. COURT replied:

- (1) Yes. Double dual gauge tracks are provided.
- (2) Answered by (1).

10. *This question was postponed.*

## AGRICULTURAL AND SOIL CONSERVATION OFFICERS

### *Number Stationed in North-West and Murchison*

11. Mr. NORTON asked the Minister for Agriculture:

How many—

- (a) agricultural advisers,
  - (b) agricultural technicians, and
  - (c) soil conservation officers
- are stationed in the north-west and Murchison and at which centres?

Mr. NALDER replied:

- (a) Four. Headquarters at Port Hedland, Carnarvon, Wiluna, and Geraldton.
- (b) Eight. Headquarters at Port Hedland (2), Carnarvon (3), Wiluna (2), and Geraldton (1).
- (c) All officers of the north-west division of the Department of Agriculture are concerned with the development of sound conservation practices for the pastoral areas. Assistance from officers of the soils division is available as required.

## LAND CONDITIONS IN NORTH-WEST

### *Newspaper Article on Aridity*

12. Mr. NORTON asked the Minister for Agriculture:

- (1) Has he read the news item which appeared in the *Northern Times* recently headed "North-West Becoming a Desert"?
- (2) If so, does he agree with that statement?
- (3) Is he aware that the person who is reputed to have made this statement had spent 10 months overseas in Egypt, Jordan, Europe, Arizona, and other American States studying arid land conditions?

Mr. NALDER replied:

- (1) to (3) It has not been possible to obtain a copy of the *Northern Times* containing the article referred to, but if the honourable member can supply this I will be pleased to reply to the question.

## FLOOD DAMAGE: RELIEF FROM LORD MAYOR'S FUND

### *Grounds of Eligibility*

13. Mr. I. W. MANNING asked the Premier:

- (1) Will he inform the House as to what are the grounds of eligibility for flood relief from the Lord Mayor's Appeal Fund?
- (2) Will relief be confined to any particular areas? If so, which areas?

- (3) Will farmers and orchardists who have suffered extensive pasture, fruit, and fencing losses also be eligible?
- (4) If the answer to (3) is "No," is there any source of assistance available to this type of applicant?

Mr. BRAND replied:

- (1) to (4) Eligibility for flood relief and the areas of application are matters for determination by the Lord Mayor's Distress Relief Fund Committee, which, I understand, is at present formulating its policy in respect of the recent flood losses.

14. and 15. *These questions were postponed.*

### **HANDICAPPED PERSONS: REHABILITATION**

#### *Government Assistance to Country Areas*

16. Mr. HALL asked the Minister for Labour:

Will the Government's policy of assistance to rehabilitate handicapped persons be extended to those in country areas?

Mr. WILD replied:

The main government attention to handicapped persons on the employment side is extended through the facilities of the Commonwealth employment service. This includes the specialised service through the professional services offices in each capital city, and implemented operationally through the district employment offices in each of which there is an officer specially designated to look after the employment problems of handicapped persons.

### **PASTORAL INSPECTORS**

#### *Number and Places of Residence*

17. Mr. RHATIGAN asked the Minister for Lands:

- (1) How many pastoral inspectors are employed to cover the pastoral districts of—
- (a) Kimberley;
  - (b) Pilbara;
  - (c) Gascoyne;
  - (d) Murchison?
- (2) Where does each Inspector reside?

Mr. BOVELL replied:

- (1) Four pastoral inspectors were recently engaged. They have not yet been allotted to districts.
- (2) When districts are determined it is proposed the inspectors will have their headquarters there.

### **T.A.B. AGENCY IN MURRAY STREET WEST**

#### *Conditions of Appointment of Lady Manager*

18. Mr. EVANS asked the Minister for Police:

With reference to question 7 (Totalisator Agency Board—Employment of Women) on the Legislative Assembly notice paper of the 3rd September, 1964, is he now in the position to answer parts (1) and (2) and parts (7) to (12) of that question? If so, what are such answers?

Mr. CRAIG replied:

No; but the matter will be decided by the board when it next meets.

### **LEGISLATIVE ASSEMBLY DISTRICTS REDISTRIBUTION**

#### *Application of Section 11A of Electoral Districts Act*

19. Mr. JAMIESON asked the Minister representing the Minister for Justice:

What section of the Electoral Districts Act suggests, implies, directs or otherwise advises the electoral commissioners that the provisions of section 11A and particularly the definitions contained therein do not apply to a future Legislative Assembly redistribution?

Mr. COURT replied:

Line 1 of section 11A of the Electoral Districts Act, 1947-1963, and lines 8 and 9 of subsection (7) of section 12 of that Act.

### **LOCAL GOVERNMENT MEETINGS**

#### *Exclusion of Ratepayers*

20. Mr. JAMIESON asked the Minister representing the Minister for Local Government:

- (1) In view of the increasing number of complaints regarding the holding of local government meetings behind closed doors and the withholding of information from ratepayers, does he intend to amend section 175, paragraph (4) to clarify ratepayers' rights and also the specific occasions on which closed doors shall be in order?
- (2) Is he aware that complaints have been made by ratepayers of a number of local authorities including South Perth, Belmont, Cockburn, and Nedlands with regard to the exclusion of ratepayers from council meetings or early decisions of same?
- (3) Have the authorities mentioned in (2) all adopted the Local Government Model By-laws on Standing Orders?

Mr. NALDER replied:

- (1) It is not considered that the number of complaints reported so far received indicate that there is any real need to amend section 175 (4) of the Local Government Act.
- (2) The Minister is aware, from Press reports, that there have been some complaints. He himself, however, has received only one actual complaint, this being in respect of Cockburn Shire Council.
- (3) Two of the councils quoted—namely, Belmont and Cockburn—have adopted the model by-laws. The other two have their own by-laws.

### SAFETY BELTS

#### *Provision for Fitting on New Cars*

21. Mr. DAVIES asked the Minister for Transport:

In view of the fact that the Victorian Government has determined that all new cars sold in that State as from the 1st October next shall be equipped with lugs for the fixing of safety belts, does he not think that such a provision in this State would be desirable?

Mr. CRAIG replied:

A copy of the Victorian legislation was only recently received and is now being studied.

It is anticipated that when the Victorian and South Australian legislation is in operation most of the new cars imported into this State will be fitted with safety belt attachments.

### "FIVE MILE BROOK" DIVERSION

#### *Survey and Course to be Taken*

22. Mr. WILLIAMS asked the Minister for Works:

- (1) Could he inform me as to whether the survey has been completed for the diversion of "Five Mile Brook"?
- (2) Approximately what course will the proposed diversion take and where on the coast will the outfall be?
- (3) What proportion of the present flow of the brook at Bunbury will be diverted when the diversion is completed?

#### *Completion and Cost*

- (4) (a) Could he give an approximate date for the completion of this project?
- (b) What is the estimated cost?

Mr. WILD replied:

- (1) and (2) Survey and investigation are not yet completed.
- (3) Up to 70 per cent.
- (4) (a) No.
- (b) Estimate is not finalised.

### FOOTBALL POOLS

#### *Operation in Australia*

23. Mr. WILLIAMS asked the Minister for Police:

- (1) Is he aware of a letter circulated to members of Parliament from the W.A. National Football League (Inc.) also a copy of a letter from the Australian National Football Council, dated the 31st August, 1964, and the 12th August, 1964, respectively, in which one paragraph reads as follows:—

Every now and then we hear of attempts to launch Football Pools in Australia, although it is understood that under present States' legislation, Pools are illegal. Despite present legislation, it is known that well established and "mushroom" companies—some from overseas—groups and individuals, are constantly probing to find some way to break through Government legislation to introduce Pools. There is also the possibility that a change of Government in any one State could bring about an amendment to the Gaming Act to make Pools legal?

- (2) Is there any evidence of these companies, groups or individuals operating in this State?
- (3) Has he any reports of these operations in other States?

#### *Government's Intention*

- (4) Is it the intention of this Government to further extend facilities for gambling as suggested in the letters mentioned above?

Mr. CRAIG replied:

- (1) Yes.
- (2) No.
- (3) No.
- (4) No.

The answer to the last question was given as a result of my discussion with the Premier.

### EXPORTS

#### *Incentive Freight Rebates by Railways Department*

24. Mr. HAWKE asked the Minister for Railways:

- (1) Are any freight rebates granted by the Railways Department as an incentive to increasing exports, both interstate and overseas?

- (2) If so, what are the names of the firms so assisted to the end of August, 1964?
- (3) What is the percentage rebate granted?
- (4) What is the total amount of rebate allowed over each of the last three financial years?
- (5) If no such rebate has been granted, will he give consideration to the advisability of introducing the rebate system as an incentive to local producers and manufacturers to step up exports?

Mr. COURT replied:

I have explained to the honourable member who asked this question that I could not give a complete answer today. Would it be in order for me to reply to (1), (3), and (5)?

The SPEAKER (Mr. Hearman): That would be in order.

Mr. COURT: The answers are—

- (1) The whole freight rate system of the W.A.G.R. is designed in the main to benefit export commodities which need low cost freight to compete.

Rail distances from ports are also taken into account through the telescopic system of freight rating. Special assistance is given in some cases both for local and export commodities.

An example of the former is the subsidy and special freight rates for pyrites from Norseman.

Examples of the latter are timber, some minerals, and export flour.

There is also the current practice of the railways to negotiate concessional rates under contract conditions where it is obvious the traffic would not be moved if gazetted rates were applied.

- (3) This varies with each case.
- (5) Both the W.A.G.R. and the Department of Industrial Development are always ready and willing to consider cases that arise, as has been the practice in the past. It is impracticable and undesirable to have a fixed schedule of such rebates. Each case has to be considered on its merits and also decided as to whether it will be carried within the railway finances or by Treasury assistance direct or through the Department of Industrial Development.

## QUESTIONS WITHOUT NOTICE

### PRESS ARTICLES ON RAILWAYS

#### *Cost of Publication*

1. Mr. HALL asked the Minister for Railways:—

- (1) Is he aware of the articles appearing in city and country newspapers State-wide headed "Driving of Last Spike will open New Era," as attributed to him?
- (2) Is he also aware of the article appearing in city and country newspapers headed "Twin Projects give State its Greatest Boost," as made by the Commissioner of Railways (Mr. C. Wayne).
- (3) If the answer to (1) and (2) is "Yes," can he advise if the cost of publishing such articles State-wide has been debited to the W.A.G.R. Deficit Account; or, if not, to what department are the costs incurred debited?

Mr. COURT replied:

In answer to the member for Albany, who was good enough to send this note over to me just before he asked the question—

Mr. Rowberry: It is a question without notice isn't it, anyway?

Mr. COURT: The answer is—

- (1) to (3) I have seen the articles in the city Press, but not in the country Press. I presume they would be the articles to which the honourable member refers. As far as I know they are of a purely editorial nature, and there is no cost whatever to be borne by the Railways Department or any other department.

### T.A.B. AGENCY IN MURRAY STREET WEST

#### *Conditions of Appointment of Lady Manager*

2. Mr. EVANS asked the Minister for Police:

With reference to question 18 on today's notice paper, I have asked this question twice. Perhaps I am to blame for being an inexperienced questioner. Therefore, when the board has met and has decided this matter, will the Minister let me have the reply automatically rather than have me ask the question again?

Mr. CRAIG replied:

Yes; I will give that undertaking. I understand the board will meet towards the end of the month, and as soon as a decision is made I will advise the honourable member.

**ADDRESS-IN-REPLY***Conditions of Presentation to Governor*

## 3. Mr. HEAL asked the Speaker:

- (1) Is it the policy of the Speaker to request a member of the Opposition to accompany him when he presents the Address-in-Reply to the Governor?
- (2) In what form is the Address-in-Reply presented to the Governor?
- (3) Can it be anticipated that the Governor will read every member's speech made during the Address-in-Reply debate?

The SPEAKER (Mr. Hearman) replied:

- (1) The normal requirement is that the mover and seconder of the Address-in-Reply accompany the Speaker when it is presented. There is no rule about this. I have made it a practice in the past to endeavour to ask any new member who might be interested to go with me, such as a member who is newly-elected at the general election or one who has been elected at a by-election. That practice has been adopted by me without any reference being made to the parties or any thought as to which side of the House such member might occupy. During the third session, of course, there are normally no new members. This morning's proceedings were advanced slightly because of His Excellency's desire to attend the hockey match which was held at the W.A.C.A. ground.

Mr. Graham: Who won?

The SPEAKER (Mr. Hearman): I could not say. Continuing the answers—

- (2) The presentation to the Governor is purely a formal matter. I read out to him a short speech in which I explain that members have expressed their loyalty, and so on. The Governor replies formally in the terms I read out this afternoon.
- (3) I would not presume to give any such undertaking whatever because I do not know what the Governor will do and what he will not do.

Mr. Hall: He has more brains!

**BILLS (2): INTRODUCTION AND FIRST READING**

## 1. Banana Industry Compensation Trust Fund Act Amendment Bill.

Bill introduced, on motion by Mr. Nalder (Minister for Agriculture), and read a first time.

## 2. Prisons Act Amendment Bill.

Bill introduced, on motion by Mr. Ross Hutchinson (Chief Secretary), and read a first time.

**POLICE ACT AMENDMENT BILL***Second Reading*

MR. CRAIG (Toodyay—Minister for Police) [2.39 p.m.]: I move—

That the Bill be now read a second time.

The Police Act of 1892 has over the years had very few amendments made to it in regard to penalties, and such amendments as have been effected are mainly those adding new sections to the Act. Consequently it can be said that most of the penalties referred to in this Act have been in existence since 1892 (i.e., 72 years ago).

It will be readily appreciated, of course, that monetary values of 1892 do not compare with today's trends, and in consequence do not have the same deterring effect on the offender.

The inadequacy of some of the penalties has in recent times been subject to criticism, particularly by magistrates, the Press, and the public, and especially those sections dealing with assaults on police, offensive behaviour, and so on. I think members will recall the reference in the Press to the fact that magistrates had expressed their regret that the fine was not more than £10. They said that £10 is not a sufficient deterrent.

There is no doubt in anyone's mind that present penalties do not act as a sufficient deterrent to a repetition of such offences, or, for that matter, provide an adequate punishment to meet the crime committed. For example, it could be considered that penalties referred to in section 20 of the Act dealing with assaults on police during the course of execution of their duty do not act as a deterrent to repetition of this type of offence, there being some 251 charges for the year ended the 30th June, 1964. The present penalty is £10, or up to a maximum of two months' imprisonment. This particular section not only refers to assaults upon police, but also covers the cases where the police are hindered in their duty and where offenders resist a police officer in the execution of his duty. Nevertheless, there were some 251 charges in the courts in 12 months.

In many cases a fine of £10 only is imposed as it is considered that the infliction of the imprisonment term does not assist in the readjustment or, for that matter, the rehabilitation, of the offender. I refer particularly to the younger type of first offender. On the other hand, the fine of £10 to many offenders is only a boost to their own peculiar type of ego. The term of imprisonment is, however, applied in many of the more serious cases.

The Police Union, too, has expressed concern at the considered inadequate penalty meted out to this type of offender; and, as far as we are concerned, it is only right to expect that Parliament, which is responsible for making the laws of this State, should also provide protection for those responsible for the maintenance of those laws. This limited protection can possibly be rectified with the penalties referred to in this Bill, which provides for a pecuniary penalty of £50 and/or imprisonment for six months.

Similarly, the penalties provided under sections 42 and 54, dealing with disorderly conduct, need substantial increase in an effort to counteract a continuance of this type of offence. Some 939 charges were laid under section 54 during the 12 months' period ended the 30th June, 1964—884 males and 55 females. This type of offence is one that is committed in places of public entertainment and the like. I recall the member for Maylands recently asking me a question in connection with a stomp dance in his electorate. As I have said, there were no fewer than 939 charges laid under this particular section of the Act in 12 months.

It will be obvious to members that some sections of this Act are possibly redundant, and also that the wording of other sections is completely outmoded and not in many cases applicable to circumstances of today. For instance, section 104, which refers to bathing being prohibited unless in proper bathing costume, between the hours of six in the morning and eight in the evening, would suggest that it would be legal to bathe at any other time without a bathing costume; but, of course, this is attended to under the section dealing with disorderly conduct and by by-laws made by local authorities.

The Government is at present undertaking a review of all Statutes, including the Police Act, but it will be impossible to finalise the task this session. When completed, it will enable redundant sections to be removed and others to be modernised.

All existing penalties provided for in the Police Act have been reviewed and efforts have been made to reach a degree of uniformity, particularly in relationship to similar types of offences dealt with under other Acts, such as the Health Act, the roads and districts Acts, and the Municipal Corporations Act, together with the by-laws made under these Acts.

It might be considered that an increase in penalties in outmoded sections of the Police Act should be deferred until the review previously referred to has been completed; but I would not recommend this course, because of the degree of uncertainty that exists as to whether any particular redundant section is completely covered in any other Act or Acts.

The provision of minimum penalties is another matter causing the authorities concern as it is felt that a magistrate who

has heard the evidence of both prosecution and defence is in a position to reasonably assess a suitable penalty; whereas the provision of a minimum penalty could lead to injustices in certain cases. For that reason, they have been deleted. Although maximum penalties have been increased, this does not commit a magistrate to inflict those penalties, as he would still have the power under the Justices Act to award lower penalties.

In arriving at the amended penalties, each section has been carefully studied; and, although it is not intended to detail them separately and section by section, in this speech, members will, of course, have the opportunity to refer to them during the Committee stages of the Bill, provided the second reading is agreed to.

Debate adjourned, on motion by Mr. Brady.

## LOCAL COURTS ACT AMENDMENT BILL

### *Second Reading*

MR. COURT (Nedlands—Minister for Industrial Development) [2.47 p.m.]: I move—

That the Bill be now read a second time.

This Bill was introduced in another place by the Minister for Justice. Its purpose is to grant jurisdiction to Local Courts in actions for recovery of possession over property with a rental value not greater than £800. The present limit is £500.

Though very many actions for such recovery in the local courts are routine matters, more often undefended than not, a great many residences are of a rental value exceeding £500 per annum, and it is considered reasonable to move this figure to £800, in respect of which it will be proper for the local courts to deal. This Bill does not increase the general jurisdiction of local courts in any other manner.

The other amendment in the Bill amends the Act to bring it into compliance with an Order-in-Council made in 1904. This is in connection with the appointment of bailiffs. Bailiffs are required to be appointed by the Governor under the Act. Even so, by Order-in-Council made quite early in the century, as previously mentioned, certain minor appointments, including those of bailiffs, were vested in the Minister for Justice; and, as this procedure has continued for a period of no fewer than 60 years, that in itself is submitted as good and sufficient reason to amend the Act to bring it into line with established custom, which was authorised by the issue of the 1904 Order-in-Council.

Debate adjourned, on motion by Mr. Evans.

## PRESBYTERIAN CHURCH ACTS AMENDMENT BILL

### *Second Reading*

**MR. ROSS HUTCHINSON** (Cottesloe—Chief Secretary) [2.49 p.m.]: I move—

That the Bill be now read a second time.

This Bill seeks to amend the Presbyterian Church Act, 1908, and the Presbyterian Church Act Amendment Act, 1919. The Presbyterian Church Act constitutes a corporate body in the name of "The Commissioners of the Presbyterian Church in Western Australia" to hold the property of the church and of any congregation or institution connected with the church. This means that institutions such as Scotch College and Presbyterian Ladies' College are unable to hold their own property, and any dealings in land by them are subject to inconvenient and time-consuming procedures.

The church desires that its General Assembly should be given power to authorise the incorporation of the colleges and other institutions, such as its homes for aged persons; and that, upon incorporation, such bodies should have vested in them the property exclusively employed in the work and activities of such college or other institution. The proposed amendment ensures that the vesting of property in the newly-incorporated body shall be free of stamp duty and transfer fees and also that the exemption from municipal and water rates and land tax presently enjoyed by the colleges should continue to be enjoyed following separate incorporation.

The church also desires that the opportunity be taken to clarify two sections of the existing legislation. Section 7 of the 1908 Act provides that property on which any church, school, or manse is erected and all property purchased or given for the benefit of any church, school, or manse, shall be held by the commissioners in trust for the congregation of such church, and if such congregation ceases to exist then in trust for such other purposes as the general assembly of the church may determine. It is proposed to amend this section to make clear that it applies only to property held by the commissioners upon trust for a particular congregation. This is the way in which the clause has been construed in the past, but its obscurity has given difficulty.

Section 4 (2) of the 1919 Act deals with the borrowing powers of the commissioners and the amendment is designed to make clear that the power to borrow on the security of property is limited to property which is not already mortgaged to 50 per cent. of its value. It also provides that the borrowing powers of the commissioners under this section shall be exercised subject to obtaining the direction of the General Assembly in the case of property held

in trust for other than congregational purposes (section 8 of the 1908 Act) and the consent in writing of the Governor in the case of property acquired by gift from the Crown (section 10 of the 1908 Act). Hitherto there has been doubt as to whether these restraints imposed by the 1908 Act applied to transactions under section 4 (2) of the 1919 Act.

Debate adjourned, on motion by Mr. Sewell.

## JUSTICES ACT AMENDMENT BILL

### *Second Reading*

**MR. COURT** (Nedlands—Minister for Industrial Development) [2.53 p.m.]: I move—

That the Bill be now read a second time.

This Bill was introduced in another place by the Minister for Justice, and when doing so he explained that the measure emanated from a court action which occurred last year before a judge of the Supreme Court where it appeared that a plea of "guilty" had been entered in the Lower Court by the defendant without proper understanding of the relevant law and what that plea entailed. In other words, by entering a plea of "guilty" in the Lower Court, the defendant was not able to exercise any right of appeal.

The judge pointed out that he had no power to set aside the plea of "guilty". He suggested, however, that consideration could well be given to amending the law in order to enlarge the scope of the Justices Act, for, as he said—

I cannot regard it as satisfactory that where a man is convicted in Petty Sessions on his plea of guilty and where this court is persuaded that there is real doubt as to the propriety of that plea, "but without error on the part of the magistrate or justices," and where the man merely asks that he be tried in the ordinary way on the charge made against him, that then the Supreme Court is without power to see that he has such a trial.

As a consequence of this expression of opinion, the Minister for Justice had this aspect of the Justices Act closely examined with a view to effecting some improvement lest an innocent person might suffer because of some technicality in the law.

At present under section 197 of the Justices Act, a judge has only limited powers on an appeal against a conviction in the Lower Court. Similar provisions apply in both Victoria and Tasmania. On the other hand, the Justices Act operating in New South Wales, Queensland, and South Australia, grants a right of appeal under any circumstances where a person feels aggrieved by a conviction or order of justices.

Already, under our own Criminal Code, a person convicted on indictment may appeal under section 688 (1) (b) to the Court of Criminal Appeal for the leave of the court, or upon the certificate of the trial judge on any ground "which appears to the court to be a sufficient ground of appeal".

This amendment to the Justices Act gives similar power to a judge on an appeal from an inferior court. I commend the Bill to members.

Debate adjourned, on motion by Mr. Evans.

## AGRICULTURE PROTECTION BOARD ACT AMENDMENT BILL

### *Second Reading*

Debate resumed, from the 3rd September, on the following motion by Mr. Nalder (Minister for Agriculture):—

That the Bill be now read a second time.

**MR. HAWKE** (Northam—Leader of the Opposition) [2.57 p.m.]: There are three provisions in this measure to amend the Agriculture Protection Board Act. The first seeks to give the board the right, with the approval of the Minister, to purchase or lease any real or personal property to carry out the provisions of the law. This will enable the board to purchase land for its own purposes and also establish a protection to the board itself in relation to the patent for the method of poisoning known as "One Shot 1080". This method of poisoning was evolved, I understand, by an officer of the board. But, under the present law, there is no protection of the patent rights to the board, because it has no power, under the existing law, to have ownership of land or property.

So the Bill, in that part, proposes to give the board the necessary power and protection. The other amendment has to do with the minimum amount of money the board shall spend. Under the present Act, the amount of £105,000 is the maximum. The board's expenditure for the present year is already well above that figure, and so this Bill proposes to insert the words, "not less than", which will mean that the provision will read, "not less than £105,000"; so instead of that figure being the maximum as it is at present it will become the minimum. There is no objection to the Bill from those on this side of the House, and I support the second reading.

Question put and passed.

Bill read a second time.

*In Committee, etc.*

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

## SALE OF LIQUOR AND TOBACCO ACT AMENDMENT BILL

### *Second Reading*

**MR. COURT** (Nedlands—Minister for Industrial Development) [3 p.m.]: I move—

That the Bill be now read a second time.

This Bill is No. 22 on the file. Last year Parliament amended section 39 of the Licensing Act by removing from the section the obligation placed on gallon licensees to record, when selling liquor, the name of the purchaser. So, as far as the Licensing Court was concerned, this matter had been finalised. However, as explained by the Minister for Justice, when introducing this measure in another place, it has since been brought to the notice of the Government that an almost identical provision to that removed from the Licensing Act still remained in the Sale of Liquor and Tobacco Act of 1916.

It appeared to The Hon. Mr. Griffith that there was a definite conflict between the two Acts which should be remedied at the earliest opportunity. Hence the introduction of this Bill. During the intervening period since this conflict came under notice officially, the possibility of a prosecution being maintained by the Police Liquor Inspection Branch was obviated administratively by the Commissioner of Police authorising a discretion in the Liquor Inspection Branch in respect of the policing of section 3 of the Sale of Liquor and Tobacco Act.

It will be seen in clause 4 of the Bill that almost the entire Act is now being repealed, and all that will be left on the passing of this Bill into an Act will be references to the sale of cigarettes, tobacco, etc.; hence the necessity to alter the title of the parent Act, which will in future deal only with these matters. All of the sections being repealed contain provisions which are in conflict with or redundant to the Licensing Act. I would like to explain the position briefly as follows:—

Section 2 contains conflicting trading hours under the Liquor Regulation Act, 1915, which expired in 1922.

Section 3 was explained in the introduction. It deals with the purchaser giving his name to a gallon licensee.

Section 4 prohibits the sale of liquor to persons under 18 years of age. The Licensing Act now stipulates 21 years.

Section 5 refers to Australian Wine Licenses—now covered by section 33 of the Licensing Act.

Section 6 likewise refers to eating house licenses, for which provision is made in the other Act.

Section 7 has reference to Australian wine bottle licenses. Again the Licensing Act applies in section 34 (2).

Section 8 deals with the assignment, etc. of lease under an Act which has already expired, namely, the Liquor Regulation Act, 1915.

Section 9 makes provision for the absence of a licensee on armed service, but this is now part of section III of the other Act.

No. 5, which is the final clause in the Bill, comprises legal expressions necessary in view of the peculiar mode of adopting some of the sections of the 1916 Act in a reprint of the Licensing Act of 1911 as provided by section 134 of the Act No. 39 of 1922. This clause has been drafted in order to resolve any doubts that may arise that provisions of any repeal affected by the Repeal Act do not affect the provisions of the Licensing Act, 1911-63, as they exist, on the coming into operation of the Repeal Act.

Debate adjourned, on motion by Mr. Jamieson.

## HEALTH ACT AMENDMENT BILL

### *Second Reading*

Debate resumed, from the 3rd September, on the following motion by Mr. Ross Hutchinson (Minister for Health):—

That the Bill be now read a second time.

**MR. TOMS** (Bayswater) [3.6 p.m.]: While the Bill contains 23 clauses, many of them are consequential; and, as outlined by the Minister for Health, there are only six sections of the Act to be amended. None of the amendments are really earth shattering, though the majority of them are quite necessary.

The first amendment deals with interpretations. It removes the interpretation "boarding-house," and provides a new interpretation of a "Lodging-house." As the Minister explained, the second amendment is also vitally necessary, and provides for the inclusion of baths, basins, sinks, etc. when an order is served and the local authority is permitted to finance certain works.

Under the present Act there is a limitation; but, with the amendments before the House, it will be possible to have this work carried out. It is often found when a house is ordered to be connected to the sewer that the other facilities must also be incorporated in the new work. This will meet a rather long-felt want.

The next amendment of consequence is one that deletes from that section of the Act the reference to the provision of separate toilets for both sexes. As the Minister explained, this is something over which the local authority has no particular jurisdiction but in respect of which

it must conform strictly to the Act, even where a position occurs in a small business comprising two or three persons for whom separate toilet facilities must be supplied. This amendment, however, will provide discretionary power to the local authority. There is already a provision granting a right of appeal in the event of its not being satisfactorily resolved in the opinion of the party concerned.

The majority of the clauses following deal with consequential amendments. Clause 11 is possibly a relic of the old goldfields days when it was indicated that there should be whitewash on the canvas walls, etc. These are matters that we are striking in our Acts today; they had reference to conditions which applied many years ago, and which are not applicable today. It is necessary, therefore, to bring down amendments such as these from time to time.

The next amendment is a very important one, even though the Minister did not speak on it at any great length. It makes it mandatory for a lodging-house keeper to keep a record of the people boarding at the particular lodging-house.

Previously the local authority could, if it so desired, get that list or ask the lodging-house keeper to supply it. It was left to the discretion of the local authority. But now it will be mandatory for a lodging-house keeper to register all occupants of the house; and I believe members will see the wisdom of this as it is necessary for a health inspector to know who has been in any particular place and what contact the people might have made in the case of infectious diseases. At the beginning this amendment may have seemed minor, but to me it is important because it will materially assist health inspectors of local authorities in tracing down contacts whenever there is a case of infectious disease.

The next amendment explained by the Minister was that dealing with the registration of hospitals and the fees to be charged. Under the present Act the Minister intimated that the fee was rather low and would be increased. He did not say that every hospital would be charged the same, and possibly there will be a sliding scale in respect of particular types of hospitals. However, the fee could possibly go up from 10s. to around £10.

Another amendment deals with respirators, and so on, which may be purported to protect people. The commissioner is now given power to either prohibit the publication of any information, notice, or advertisement relating to their purported use; and I feel no member on this side of the House, particularly when he takes into consideration the safety of workmen who may use these particular respirators, would have any objection to this provision but would wholeheartedly support it.

The final amendment to which I would like to refer deals mainly with the substitution of the word "aboriginal" in section 339 for the word "native". In these days we are trying to take away from our darker brothers the feeling of colour; and it may have been better, after consultation with the Native Welfare Department, to change the word "aboriginal" to the word "person", because the Act would then read, "a person to whom the Native Welfare Act applies" and surely it is logical to assume he would be a native. An amendment along the lines I have suggested would break down the colour bar; and I would ask the Minister to confer with the Minister for Native Welfare and the department to see whether there is any merit in what I have stated. If so, perhaps an amendment to the Bill could be made in another place.

As I said earlier, I believe the amendments contained in this measure and explained in the second reading speech by the Minister for Health are well merited; and on behalf of my colleagues I have much pleasure in supporting the Bill.

**MR. ROSS HUTCHINSON** (Cottesloe—Minister for Health) [3.15 p.m.]: Briefly, I would like to thank the honourable member for his support of the amendments, which are indeed worth while. In fact, some are of considerable importance.

He did mention the reference to the word "native" in the last clause. This is something which has only been done to tidy the Act and has reference, in the main, to the Department of Native Welfare. I will mention it to the Minister, but I see no real reason for any change in this regard.

**Question put and passed.**

**Bill read a second time.**

*In Committee, etc.*

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

## **CHIROPRACTORS BILL**

*In Committee, etc.*

Resumed from the 8th September. The Chairman of Committees (Mr. I. W. Manning) in the Chair; Mr. Ross Hutchinson (Minister for Health) in charge of the Bill.

### **Clause 7: Constitution of Board—**

The **CHAIRMAN**: Progress was reported on the clause after Mr. Hawke (Leader of the Opposition) had moved the following amendment:—

Page 3, lines 20 and 21—Delete the words "and are registered or entitled to be registered as chiropractors under this Act."

**Mr. ROSS HUTCHINSON**: When this clause was being debated the Leader of the Opposition endeavoured to assist me in arriving at a solution to the wording in order that there would be no legal debarment regarding the make-up of the board. It was pointed out that the present wording was such that, as one member put it, it was impossible to get the board off the ground.

I have subsequently looked into this matter and have consulted the Crown Law Department. It does appear that the clause needs amending. The Leader of the Opposition has moved in a certain direction to delete certain words. It is my wish that those words should be retained but that the objective should be achieved by the insertion of other words. I wish to move the following amendment—

Page 3, line 20—Delete the word "and" and substitute the words "and who, except in the case of the respective persons first appointed to office of member under this paragraph,"

This amendment would enable the words that I mentioned to be retained and at the same time it would permit the board to become established. If the Leader of the Opposition agrees with my amendment he might be good enough to withdraw his own.

**Mr. HAWKE**: My only objective in raising the issue was to ensure that this part of the Bill would, when the Bill became an Act, have legal effect.

As I read and understood this part of the clause, the board could not legally have been established had this part of the clause become law in the form in which it now stands. Although my motives were seriously misunderstood at the time, and although improper motives were imputed against me, I remained calm and stood my ground on the issue. It was very satisfying, after having stated my case in committee on two or three occasions, to have the member for Subiaco not disagree with me. In fact, I could tell, from listening between the lines of his speech, that he agreed with me 100 per cent.

**Mr. Guthrie**: I wasn't sure; put it that way.

**Mr. HAWKE**: I think the member for Subiaco was very sure in relation to the basis of my criticism if not in relation to the suggestion I made to remedy the situation. The amendment suggested by the Minister will be completely effective in overcoming the weakness, and I have no objection to it. The Minister, in his amendment, proposes to delete the word "and" to immediately reinsert it in the same place. I understand this is technically against our Standing Orders. I am pleased indeed and well satisfied that the situation to which I drew attention is now effectively to be remedied and I

have no objection to withdrawing my amendment in favour of the one suggested by the Minister.

**Amendment, by leave, withdrawn.**

Mr. ROSS HUTCHINSON: I thank the Leader of the Opposition. I think the word "and" had something to do with my moving this amendment if the Leader of the Opposition had decided to be difficult and had proceeded with his own amendment.

The CHAIRMAN (Mr. I. W. Manning): I think the Minister would better achieve his objective by moving to insert the passage after the word "and".

Mr. ROSS HUTCHINSON: I am quite happy to do so. I move an amendment—

Page 3, line 20—Insert after the word "and" the words "who, except in the case of the respective persons first appointed to office of member under this paragraph,"

**Amendment put and passed.**

Mr. GUTHRIE: I have an amendment on the notice paper which is similarly affected by the point raised by the Leader of the Opposition the other evening. Although I agreed with the Leader of the Opposition, I was puzzled by the fact that this matter had not arisen before. I felt there might be some provision in the Interpretation Act to cover it. However, I find there is no such provision and that on previous occasions this Parliament has passed legislation which contained a similar fault. I do not know how the boards affected could have got off the ground, but apparently they did. I am compelled to alter the wording of my amendment.

I propose to move to insert a new paragraph to stand as paragraph (c) of sub-clause (2). In view of the amendment which has already been accepted, it is necessary to alter the wording of the amendment I have on the notice paper, and the new paragraph I propose will read as follows:—

Two shall be persons nominated by the Minister, of whom one at least is a person engaged in the practice of chiropractic within the State and who, except in the case of any person first appointed to office of member under this paragraph, is registered or entitled to be registered as a chiropractor under this Act.

The CHAIRMAN (Mr. I. W. Manning): I direct the honourable member's attention to the fact that he has not moved an amendment to insert the word "and" after the word "Association" in line 24.

Mr. GUTHRIE: I am sorry, Mr. Chairman. I thought I had done that. I move an amendment—

Page 3, line 24—Insert after the word "Association" the word "and".

**Amendment put and passed.**

Mr. GUTHRIE: I move an amendment—

Page 3—Insert after paragraph (b) in lines 18 to 24 the following new paragraph:—

(c) Two shall be persons nominated by the Minister, of whom one at least is a person engaged in the practice of chiropractic within the State and who, except in the case of any person first appointed to office of member under this paragraph, is registered or entitled to be registered as a chiropractor under this Act.

Mr. W. A. MANNING: I agree with the idea of two persons being appointed by the Minister; but I wonder what views the Minister has regarding who shall be selected. The amendment states that at least one person shall be engaged in the practice of chiropractic, which leaves one other member, who could be anybody. I tried to imagine what sort of a person it could be, if it was not a chiropractor. Could it be an agriculturist, a specialist, or what?

Mr. Hawke: A footballer.

Mr. W. A. MANNING: I cannot see why the two persons should not be chiropractors.

Mr. ROSS HUTCHINSON: I intend to support the amendment. During the previous Committee stage a good deal of criticism was raised because only one body was selected as being the one to nominate all four members of the board, other than the legal practitioner who is named separately. During my reply to the second reading debate I said it was never intended that all four members of the board should be nominated from the one association; and, because of that, it is easy for me to accept the amendment.

The member for Narrogin raised the point as to why the two persons nominated by the Minister should not both be chiropractors. The thought crossed my mind; and, indeed, they might well both be chiropractors. The amendment moved by the member for Subiaco merely gives the Minister a discretion in selecting two chiropractors, or one chiropractor and a lay member. At the present time if I were asked to state my intentions I think I would probably say I would appoint two chiropractors.

However, I have not finally determined the point. After I have had further discussions it may well be my view that a suitable layman would be the best person to help resolve some of the problems and difficulties surrounding the chiropractic profession. Still, I do not know what I will do. There is probably a 90 per cent. chance two chiropractors will be appointed,

but the amendment gives me room to manoeuvre. As the Leader of the Opposition said, the other member may even be a footballer.

Mr. Hawke: Only in his spare time.

Mr. ROSS HUTCHINSON: It may even be such an eminent person as the member for Narrogin, who I think would grace the board in no uncertain manner. Nevertheless, I support the amendment, because it gives the Minister some discretion.

Mr. FLETCHER: I think the other person should be the Commissioner of Public Health, because, as I said the other evening, the Commissioner of Public Health is a member of the three boards I mentioned: the Chiropodists Board, the Physiotherapists Board, and the Dentists Board.

Mr. Ross Hutchinson: He is not, but he has a representative on them.

Mr. FLETCHER: A representative of the Commissioner of Public Health should be a member to ensure the safety of the community and prevent malpractices by inexperienced people such as I mentioned. He would also ensure a code of ethics consistent with the best interests of the community. I sincerely hope the Minister will be able to persuade the Commissioner of Public Health, or some other medical officer of comparable standing, to accept membership on the board.

Mr. GUTHRIE: I would very much like a medical practitioner, whether he be the Commissioner of Public Health or some other officer, to be appointed to the board. If it is possible at some future time to persuade a medical practitioner to serve as a member on the board, there will be power to make such an appointment under my amendment.

The main purpose of my amendment is to prevent any cleavage among the members of the association, as between those within the association and those without. They should come together. Under the amendment the Minister may appoint chiropractors or other people to the board, but no Minister for Health would ever contemplate appointing to the chiropractors board a person who could not offer something to that board.

Mr. ROSS HUTCHINSON: There is no bar to the Commissioner of Public Health or a similar officer to be appointed to the board; but the Commissioner of Public Health has intimated that he has no wish to be appointed. Some time in the future there might be a possibility of making such an appointment to the board.

Amendment put and passed.

Mr. GUTHRIE: I move an amendment—

Page 3, line 25—Delete the word "four" and substitute the word "two."

(33)

This consequential amendment is necessary to give effect to what we have just agreed to, because we have agreed to reduce the persons to be nominated by the association from four to two.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 8 and 9 put and passed.

Clause 10: Deputies of members—

Mr. HAWKE: This clause proposes to give the Governor power to appoint a person to be the deputy of a member during the pleasure of the Governor. It states that a person appointed as a deputy shall have the same qualifications as are required in the case of a member for whom he is deputy. In the succeeding clause it is laid down that at meetings of the board the chairman—or, in his absence, his deputy—shall preside. As far as I can read from the Bill no clear-cut provision is made for the Governor to appoint a deputy chairman; or for the board to appoint a deputy chairman.

The draftsman might have considered that clause 10 (1) would cover the position; but as I understand this provision, the Governor may appoint persons, not already members of the board, to be deputies of members of the board who are absent from the State or are ill in hospital. I raise the question as to whether the Bill does make provision for the appointment of a deputy chairman.

*Sitting suspended from 3.45 to 4.7 p.m.*

Mr. ROSS HUTCHINSON: During the afternoon tea suspension I consulted the Crown Law officer who drafted this Bill, and he believes that the situation as outlined by the Leader of the Opposition is covered in that under clause 7 subclause (2) the board shall consist of five members. Each one on the board is a member. Subclause (4) of clause 7 specifies that the person referred to in paragraph (a) of subclause (2)—the legal representative—shall be the chairman of the board. Clause 10 then refers to the fact that the Governor may, for some reason which may eventuate, appoint a person to be a deputy of a member. The chairman is also a member. Subclause (2) of clause 11 reads—

At all meetings of the Board the chairman or in his absence his deputy, shall preside . . .

This is the deputy of the chairman who is a member. I see no difficulty or problems arising from the members of the board selecting a deputy who can stand in for the chairman should this be necessary.

Mr. HAWKE: I am not greatly concerned about this, but I cannot accept the reasoning of the Crown Law officer. On his argument, the person appointed by the

Governor to be the deputy for the chairman, in the event of the chairman's absence, would automatically become the chairman. That would be a rather strange situation, would it not?

Say, for argument's sake, the board had been functioning for five years or more, and all the members on it, including the chairman, had been continuously in office as members of the board. As a result they would all be very experienced. The chairman, because of illness or absence interstate, or for some other reason, is not available. The Governor appoints a deputy—a new person altogether, with no experience on the board and no experience in the affairs of the board. Automatically, according to the reasoning of the Crown Law officer, that new person is going to become the chairman until such time as the permanent chairman returns. I think that would be a most unsatisfactory situation.

Mr. Ross Hutchinson: Why?

Mr. HAWKE: Because a person entirely new to the affairs of the board and inexperienced in relation to the activities of the board becomes chairman over the experienced men who have been on the board for three, five, or more years. That seems to me to be a silly situation.

Mr. Ross Hutchinson: But this practice was carried out by your Government at one time with regard to the chairman of the Lotteries Commission.

Mr. HAWKE: It might have been. I do not know. I am not concerned with the question as to whether it was or was not.

Mr. Ross Hutchinson: It was one of your former Labor members of Parliament.

Mr. HAWKE: I am saying that might have been; but whether it was or not does not affect the situation with which I am dealing. On that point I would refer the Minister back to what happened with clause 7 of this Bill. The member for Subiaco informed us that the principle contained in clause 7 had been contained in previous Acts of Parliament; but despite this fact, it was not legally right. We have agreed here today that our duty as members of Parliament, in relation to clause 7 of the Bill, is to put it right legally, and we have done that.

Even though what the Minister says about the chairmanship of the Lotteries Commission may be correct, it does not necessarily mean that because something of that kind was done some years ago in the Lotteries Commission field we should for all time follow that example.

Mr. Ross Hutchinson: But was that necessarily incorrect?

Mr. HAWKE: It might have been. It might have been unwise. I do not know. I am simply saying that if we are going

to provide in this Bill for the appointment of a deputy chairman to take the place of the permanent chairman when that permanent chairman for some good reason is absent, we ought to make provision for one of the experienced members of the board to be appointed as acting or deputy chairman, and not lay it down in the Bill that a brand-new fellow, brought in to take the place of the chairman as a member, should automatically become the chairman of the board.

The brand-new person would not be qualified to become chairman, but the other members of the board who have been on it for three, six, or more years would be qualified; and from among them one should be chosen to be the deputy chairman to act as chairman in the unavoidable absence at any time of the permanent chairman.

As I said at the beginning, I am not greatly concerned about this; but in the interests of common sense, and from a practical approach to the situation, we should make provision, if not in this Committee at this time, in another place, for the Governor or the board itself to have the unrestricted right to appoint a deputy chairman.

Mr. GUTHRIE: This discussion leaves out one point; namely, this board is to consist of five people all of whom, bar one, must have special qualifications. The chairman must be a legal practitioner, and three other members have to be chiropractors. The fifth member is to be a person who can be anybody.

Clause 10 envisages that the Governor will appoint a deputy for each of these members—in other words, a proxy who must have the same qualifications as the particular member. So the deputy chairman must be a lawyer, and the deputy of each of the three chiropractors must be a chiropractor. The deputy of the remaining person can be anybody.

The legislation envisages that at all times a legal practitioner shall preside over the board; and that, I suggest, is the reason why the draftsman has provided that the deputy of the chairman shall preside over the board.

He would not necessarily be a person who would come in on the spur of the moment; because the draftsman envisages that these deputies shall always be there, and would therefore be kept informed. I suggest the reason behind the provision that the chairman's deputy shall act as chairman is that he would have the qualifications Parliament suggests the chairman must have.

Mr. HAWKE: I am not inclined to agree with much of what the honourable member has said, because the clause states that at all meetings the chairman, or in his absence his deputy, shall preside.

He will preside if the Governor, immediately the Act comes into operation, appoints a deputy for each of the five members of the board.

Mr. Ross Hutchinson: He may.

Mr. HAWKE: I agree that he may. From my experience, however, I would think that is the procedure which would be followed in relation to a situation of this kind. A deputy is appointed when the need arises. The Bill does not lay down that the deputy chairman has to be a legal practitioner.

Mr. Guthrie: Yes it does, in clause 10 (2).

Mr. HAWKE: Yes; that is so. I agree with the honourable member. The situation would be much better established if provision were made in the Bill for the appointment of a deputy chairman by the Governor. It would be a simple matter in respect of drafting to have an amendment put into this subclause to provide in a clear-cut way for the appointment of a deputy chairman. I will leave the matter for the Minister to have a look at it.

Clause put and passed.

Clause 11: Meetings of the Board—

Mr. W. HEGNEY: Subclause (4) provides that in the case of an equality of votes the chairman shall have a casting vote. As far as I am concerned nobody, whether he is the chairman, deputy chairman, or anyone else, shall have more than one vote. He can have either a casting vote or a deliberative vote.

This question has arisen on a number of occasions when legislation of this sort has been introduced, and the Minister in charge has accepted the principle that the chairman shall have a deliberative vote, or a casting vote, but not both. The Clean Air Bill, which was introduced by the Minister for Health, provides that questions shall be determined by the majority; and that is the democratic principle upon which I stand.

I hope the Minister will not have a prolonged debate on this question. The simplest thing is to say that in the event of an equality of votes, the question shall be resolved in the negative. If that were done, the principle enunciated in subclause (3) would then stand. I move an amendment—

Page 5, lines 34 and 35—Delete all words after the word "vote" down to and including the word "vote."

Mr. ROSS HUTCHINSON: I oppose the amendment. It has been said by a number of members in this Committee that there are elements in the profession which this Bill deals with which violently disagree with each other. It is likely that in the deliberations of the board there

will be occasions when the right of the chairman to have a deliberative vote and a casting vote will be of extreme value.

Mr. HAWKE: I am surprised and disappointed at the verbal reaction of the Minister to the amendment. The board will consist of five members, including the chairman. So, when the full number of members is present, and each of the five uses a deliberative vote, there will be a majority decision. An equality of vote in relation to deliberative votes could only come when one member was absent. The voting then, if there was an equality, would be two for and two against. In that situation the Bill proposes—and the Minister supports it—that the chairman, after he has had his deliberative vote to make the voting equal, shall have a second vote to decide the issue, either for or against.

That is a most regrettable situation for Parliament to approve. Why should one person on the board have a double vote when one member of the board is absent? What special qualifications has one member of the board to entitle him to have two votes when the voting is equal?

Mr. Ross Hutchinson: I told you of one set of circumstances which might make it necessary.

Mr. HAWKE: The excuse which the Minister put up for supporting the proposal in the Bill indicates a great lack of confidence in his own ability to appoint the two members of the board; and he will also have the say as to who the chairman shall be.

Mr. Ross Hutchinson: They make their own judgments. You have already shown a great lack of confidence in the members of the board—at least those from one association.

Mr. HAWKE: I have not shown a lack of confidence in anybody. I have shown full confidence in the association's right to appoint members; and I have shown full confidence in the Minister's ability to, in effect, appoint the chairman and the two other members, because I have 100 per cent. supported this proposal in Committee. So I do not know where the Minister's mind has wandered when he says that I have shown a lack of confidence in some of the members to be appointed to the board.

I am saying, however, that the Minister is not showing much confidence in the judgment which he himself will exercise when he recommends Cabinet to appoint the majority of the members of this board—three of them: the chairman and two others who, under the amendment moved by the member for Subiaco, and accepted by the Committee, are to be agreed upon as members of the board. The Minister will virtually choose three of the five members. So he has a complete safeguard against the fear which he expresses in

trying to bolster his opposition to the democratic amendment moved by the member for Mt. Hawthorn.

We cannot support—no member here, I should think, can justifiably do so—the proposition in the Bill, because it would lay down that where there is an equal division, when only four members are present, the chairman, who would already have exercised a deliberative vote, shall have the right to exercise a casting vote. In other words, the chairman then becomes the board; and that situation should not be provided for in any legislation. It is not democratic and it is not reasonable. The proper course to follow in such a circumstance is for the matter to be decided in the negative and brought forward at the next succeeding meeting when five members are present and when, therefore, no equality of voting can be possible; because once the full membership of the board is present and each of the five members records his vote for or against, there will be a decision.

So the Minister has nothing to fear in this matter; and I sincerely hope he will, if for no other reason than that this is his birthday, see the common sense, justice, and wisdom of not allowing one member of the board to have two votes when the voting, on a deliberative basis, is two for the proposition and two against it.

Mr. FLETCHER: I support the amendment. To condone the clause as it is printed is to say that one person, in effect, is two persons, because that one person gets two votes. Therefore, I cannot support the clause as it is, because I believe in democracy and that one person should have only one vote. Members have heard our party upholding this principle down through the years, and we are steadfast on this point. Therefore I believe that all words after the word "vote" should be deleted.

Mr. GUTHRIE: I suggest to the member for Mt. Hawthorn that he should go a little further. If he leaves the amendment as it is he will leave the clause open because it would indicate that the chairman has a deliberative vote, and therefore the normal principle would apply that he has a casting vote. I suggest that the honourable member should move to add after the word "vote" the word "only." The clause would then read, "Deliberative vote only."

Mr. W. HEGNEY: I agree that the word "only" would clarify the position.

Mr. ROSS HUTCHINSON: I agree with the amendment.

**Amendment put and passed.**

Mr. W. HEGNEY: I move an amendment—

Page 5, line 34—Substitute the word "only" for the words struck out.

**Amendment put and passed.**

Clause, as amended, put and passed.

Clauses 12 to 18 put and passed.

Clause 19: Title of chiropractor not to be used—

Mr. BRADY: During the second reading-I expressed surprise at the Minister introducing a Bill which will enable a board to allow chiropractors to be recognised and, at the same time, allow other people to engage in the same type of work providing they do not call themselves chiropractors. I maintain that a blacksmith is a blacksmith and a doctor is a doctor; so I cannot see, for the life of me, how the Minister can justify this clause.

The implication is that, provided a man does not use the word "chiropractor" in an advertisement, on his notice board, or on his letterheads, he can continue to do what chiropractors have been doing in this State for many years. Anyone who has read the Honorary Royal Commission's report will have noticed that reference is made to two types of chiropractors; that is, those who are considered to be qualified by virtue of their training and the diplomas they have gained from colleges in the United States of America or other overseas countries, and those who are not qualified.

It should be made quite clear that, once the board is operating, the only people who should be allowed to practise are those chiropractors registered with the board. Everyone would then know where they stand. Otherwise, if this clause is agreed to, the position will be farcical. A person could practise chiropractic with the board having no control over him, and such a person would not be required to pass examinations or do any research. Therefore I move an amendment—

Page 10, line 3—Insert after the word "chiropractor" the words "or engage in chiropractic."

This would make it clear to members of the medical profession, the nursing profession, or anybody interested in sending patients to people performing chiropractic that the person to whom they are sending such patient is a qualified person. Once the board comes into operation it should be recognised that it is the only authority that will allow these people to practise.

Mr. ROSS HUTCHINSON: I am not without sympathy for the principle expressed by the member for Swan. In my introduction of the Bill in the second reading stage, and in my reply to the debate, I referred to the fact that the passage of the Bill would not prevent an unregistered person from practising some form of chiropractic. So I am committed to that. I imagine it would be very difficult, and probably would bear very unfairly on some people, if the amendment were agreed to.

One of the purposes of the Bill is to let the public know who are qualified chiropractors. It seeks to give them legal standing.

Some people who practise some form of chiropractic, which may not be the defined form, may not want to be registered. I believe there are some people who do not want to be registered; and if we accept the amendment we would prevent their practising what they consider to be their calling. It is rather strange I should be talking in this way, and that is why I say I am not without sympathy for the principle expressed by the member for Swan. There is a general feeling among members in this Chamber about people who follow this calling. It is alleged by some members that they have performed notable feats of healing. Therefore, in all the circumstances, I must refuse to accept the amendment.

Mr. HAWKE: I think there is considerable merit in the objective the member for Swan has in view. In this matter, however, I find myself agreeing with the Minister.

Mr. Ross Hutchinson: Good boy! I fear I must be wrong!

Mr. HAWKE: This is one of the few occasions on which the Minister has been right in the Committee stage. The member for Swan obviously seeks to safeguard the public against the practice of chiropractic by persons inadequately qualified. He feels that in setting up this legislation we are establishing a minimum standard of qualifications for chiropractors in the future. That, indeed, is the main objective of the Bill—plus, of course, their legal registration.

Obviously chiropractors registered by the board will have a standing well above those who apply and fail to get registration. It will even be above those who for some reason do not apply at all and choose to carry on as they have done in the past without registration.

Up to that stage I can support the amendment moved by the member for Swan. However, in an earlier stage of the debate I mentioned that the setting up of this board and the establishment of a system of registration, because chiropractors—and, later on, registered chiropractors—would be in the majority on the board, could create a situation in which the chiropractors on the board could perhaps subconsciously, or unconsciously, develop a close preserve and not grant registration to applicants as freely as might, on all the facts, be justified.

Therefore it seems to me that this legislation, by allowing those who fail to obtain registration and those who for some reason did not apply for registration to continue to practise, provides a safeguard against the danger or possibility of a close preserve being established by the board as

time went on. Additionally, a member of the public who wanted to consult a chiropractor, and subsequently to be treated by one, would be able to make his or her own choice as between the registered and unregistered people. It would therefore be a matter for individual decision on the part of those concerned, as to whether they chose the registered or unregistered people.

We should at least have a period during which the situation could run along these lines. After this board has been in operation for two or three years it may be found that the position concerning unregistered people requires further attention by Parliament. We might easily reach the stage within a period of years when it would be necessary for Parliament to lay down that only registered men could practise. I do not think we should create that situation initially. I am sure the position would sort itself out reasonably well, and that legislation could be brought to Parliament to prohibit unregistered people from practising should developments show that to be warranted. So on balance, and regretfully, I must support the Minister in this matter.

Mr. FLETCHER: To be consistent, I must support the member for Swan in his amendment. He seeks to insert after the word "chiropractor" the words "or engage in chiropractic." I support the honourable member not through obstinacy but to be consistent with what I said yesterday. The practices I quoted yesterday were indulged in by an unqualified person, and I hope my remarks hit home. It was on this point that I took exception to the amendments of the Deputy Leader of the Opposition because, in effect, they would be bringing unqualified people under the umbrella. That is the point to which the member for Swan takes exception. He and I both wish to see unqualified people go out of existence. I have already shown they are a danger to the community. Not only do I disagree with my deputy leader, but I also disagree with my leader on this point; and I find it most refreshing to do so!

Mr. Ross Hutchinson: There should be more of it!

Mr. FLETCHER: Since the Minister seems so cheerful, I would point out that I also disagree with him. I stand by the case I quoted to this Chamber. I want no part of unqualified people. This is a form of dilution, and we should not break down the standards. The case I quoted yesterday could have had fatal results. There is a law preventing people from committing suicide.

Mr. Hawke: Some cases handled by some doctors have had fatal results.

Mr. FLETCHER: I know that some doctors have made mistakes, but I do not see why so-called chiropractors should be permitted to practise. I would not like

to see parents taking their children to such people. I know the amendment will be defeated; but, for the reasons I have stated, I support it.

Mr. GUTHRIE: I find myself in agreement with the Minister and the Leader of the Opposition in this matter. The Royal Commission recommended just what the member for Swan is moving, but we recommended it in a different set of circumstances, and in a different sort of Bill. If this amendment were carried, then this Bill should be withdrawn completely and a new conception produced; because, as part of the proposition that only qualified people be allowed to practise, we also carried the recommendation that Parliament should lay down the standards of qualification; that there should be a right of appeal by people adversely affected; and that there should be a grandfather clause so that people who had not established themselves would not be deprived of their living. This Bill would mean that they would be deprived of their living and be without a right of appeal if the amendment were passed.

As the Leader of the Opposition rightly said, certain chiropractors would set the standards, not Parliament. So in this context I must oppose the amendment. If it were accepted I would have no option but to vote against the third reading of the Bill because the whole conception of it would be cockeyed.

Mr. W. A. MANNING: I oppose the amendment. It will not achieve what the honourable member seeks to accomplish. We should strive for the registration of chiropractors and see that those who come under registration are fully qualified; otherwise we must admit a lot of naturopaths, as we call them, who practise what they like to call chiropractic. The member for Fremantle confused naturopaths with chiropractors. It is quite wrong to do so, because there is a field in which the former practise their therapy. They have all sorts of curious ideas for diagnosing ills. Some use pendulums, and I think one uses a spinning-wheel. The Royal Commission could not find any way of controlling these people, because it was evident that in some cases they did good. If people like to go to them and take the risk it is hard for Parliament to say they shall not do so.

Mr. Brand: Hear, hear!

Mr. W. A. MANNING: It is important to see that those registered and recognised under the Bill are really qualified chiropractors, and we must exclude those who trespass on this art. The Leader of the Opposition is on sound ground. The matter should be left open and a sufficiently high standard set. Those who are not qualified should be restrained in some way, but we have not been able to suggest a method of doing so.

Mr. TONKIN: Those members who are seeking to exclude, completely, chiropractors who do not gain registration have no objection to their continuing for the next 40 years if there is no legislation. Some of these people have been practising for 20 years. Members would find the evidence given by the previous Commissioner of Health very interesting. He referred to them as a benevolent something-or-other but said the department was satisfied they were not doing any harm and that they should be allowed to continue to practise. He felt the *status quo* should be maintained.

When we are trying to improve the practice generally, why should we suddenly determine that people whom we have permitted to practise for all these years should be stopped right away merely because others are to be given registration? I can see no justice in that. If the people concerned are a menace they should have been stopped years ago from practising; but they were not. I must assume that because of the experience they have had in the intervening years they are better qualified now than they were 10 or 15 years ago.

So this is not the time to shut them out; and this principle which is in the Bill is one which has been applied to all sorts of professions. When steps have been taken to grant registration, we attempt to grade up from the time that registration is given, but there is always a provision enabling certain persons to gain registration at the time the new step is taken.

I recall what happened in regard to dentists and tradesmen. It is recognised it would be unfair and unjust when we are handing out a privilege to a certain section to deprive another section of something they have enjoyed for a number of years.

Mr. Brady: That happened with the bookmakers.

Mr. TONKIN: That is another story; they were all wiped out and the State itself became a bookmaker.

Mr. Craig: Tell us some more about it.

Mr. Graham: That makes 78.

Mr. TONKIN: So, although one can sympathise with the desire of members who want to ensure that there is the most efficient service possible, it is a bit late in the day to object to people who have been practising for a number of years.

Mr. Graham: Why object, anyhow?

Mr. TONKIN: I, therefore, join with the Leader of the Opposition in the viewpoint which he has expressed.

Mr. BRADY: I want to draw the attention of members to one paragraph in the report of the commission.

Mr. Tonkin: I am aware of that.

**Mr. BRADY:** Other members may not be. It appears on page 11, and is as follows:—

On the evidence given before the Commission it would appear that the possible dangers are twofold; namely, (1) failure to recognise such diseases as cancer or tuberculosis of the spine, and (2) the possibility that the treatment only produces a short-term improvement, and in the long term is really harmful to the patient.

I felt as a responsible member of Parliament that I should try to have provision made for only qualified men. However, I will be quite satisfied, having drawn the attention of the Committee to the commission's report.

**Amendment put and negatived.**

**Clause put and passed.**

**Clause 20: Registration—**

**Mr. TONKIN:** I move an amendment—

Page 10—Insert after the word "chiropractor" in line 17 the following new subclauses—

- (2) Every person shall be entitled to be registered under this Act who satisfies the Board that at any time before the commencement of this Act—

- (i) he has for five years at least practised the calling of a chiropractor (the last two years of which were in Western Australia) and has during that period used as his description the word "chiropractor" alone or as a principal word of his description; and

- (ii) he has acquired such knowledge and has had in Western Australia such practical experience in chiropractic as in the opinion of the Board is sufficient to enable him to perform efficiently the duties of a chiropractor.

- (3) No person shall be entitled to be registered as a chiropractor under subsection 2 of this section unless he makes application for registration within one year after the commencement of this Act.

The purpose of this amendment is to ensure that persons who have been practising chiropractic in this State for a period and can satisfy the board they have qualifications and experience which, in the opinion of the board make them eligible for appointment, shall be registered when registration is effected, but they must make application for the advantage of this provision within one year of the proclamation of the Act.

This is a clause generally known as a grandfather clause. It is to be found in a number of Bills of this type when an improvement forward is being taken for the purpose of granting recognition to members of a profession. One of the reasons is that it is well recognised that when a man or woman gets on in years it is not as easy to study textbooks as it is in the case of youth. Whilst it is a comparatively simple matter for a young man or woman to study and qualify, it is much harder for a man whose schooldays are a long way behind him.

In my experience I have found many practical men who could run rings around the academic men who are able to pass their examinations because of their ability to study; but who, if they themselves were called upon to answer questions on paper about the technical aspects of the matters with which they deal, would be hopelessly at sea. As a matter of fact, I can recall a very outstanding case of this. We had in the Education Department many years ago a teacher of metalwork who was sufficiently successful to construct an engine in the metal workshop in the school. The engine functioned perfectly; but his percentage, when he sat for an examination in geometry, was 4 per cent. I could get 90 per cent. any time, but the ability to construct an engine was completely beyond me. As for the knowledge of metalwork that this man had, I would not have had five per cent. of it. To answer problems in geometry would be no trouble to me, but to him it was an insurmountable difficulty.

So we have to recognise it would be unfair and unjust to expect that men on in years, who have been practising their profession, should have to turn around and pass examinations on the theoretical side of what they are doing. I would like to test a few members and see how they would be in answering questions in English and Arithmetic, even though they were capable of getting "excellent" at school! I think that is something we have to take into consideration.

The sole purpose of this amendment is not to ensure that all of those persons will automatically be admitted to registration, but it is to give them the opportunity of demonstrating that, for all practical purposes, they are entitled to registration along with others. This does not mean that persons insufficiently qualified with only a smattering of knowledge will gain registration; because, in the final analysis, it is in the opinion of the board; and the board will consist finally—not originally, because of the difficulty already dealt with—of a majority of registered chiropractors.

Is it likely they are going to admit to registration persons who they feel should not be registered? Because if they were registered they would lower the prestige of registered chiropractors, generally. I

feel that the composition of the board will be a safeguard against the possibility of that happening, but I do feel we have to provide the means by which a number of these persons will be assured of registration to which I believe they are entitled, but which they might otherwise not get.

**MR. ROSS HUTCHINSON:** I think the amendment is unnecessary, as the group of persons included in the category outlined in it would have been the field to be included, having regard to the wisdom of the board and the minor particulars referred to by the Deputy Leader of the Opposition for the work of the board in the drawing up of initial standards. However, the amendment will do no harm and I will not oppose it.

**Amendment put and passed.**

**Clause, as amended, put and passed.**

**Clauses 21 to 27 put and passed.**

**Title put and passed.**

**Bill reported with amendments.**

## **EVIDENCE ACT AMENDMENT BILL**

### *Second Reading*

**MR. COURT** (Nedlands—Minister for Industrial Development) [5.14 p.m.]: I move—

That the Bill be now read a second time.

This Bill is one of several lately passed in another place and deals with one matter only; namely, providing the authority for the courts to accept as evidence photocopies of material in the custody of the Library Board.

The Evidence Act, although it contains sections outlining a wide range of Acts, proclamations, documents, and so forth, which are admissible as evidence in any court or before any person acting judicially, contains nevertheless, no provision enabling the State Library or the State Librarian to certify any copy of a document of which the original would be admissible as evidence. This Bill will permit that being done.

The Minister for Justice, when explaining the Bill, on its introduction to another place, referred to a case which occurred when a photocopy of an extract from an old *Government Gazette* was required to be produced as evidence in court. This aspect was not made clear to the Library Board when the request was made. The photocopy was duly provided, but the shire council returned it to the board with a note saying it was required to be produced as evidence in court, and, consequently, a certificate would be required to the effect of its being a true copy of the original of the *Government Gazette* held in the Battye Library.

There is, of course, no reason why the State Librarian should not furnish such a certificate, and there are many purposes for which such a certificate would be acceptable. But as the Justices Act now stands, a certificate of that nature issued by the Library Board would have no effect where the rules of evidence as administered in courts of law are concerned. The passing of this Bill would resolve this problem. The Library Board is already custodian of much valuable and historical material. The State Librarian would nevertheless be naturally quite reluctant to part with valuable originals even for short-term usage in court, and it is submitted the proposal in the Bill to authorise certified photocopies is quite a reasonable approach to the matter.

It will facilitate the Library Board rendering a desirable public service; and though the occasion to use this authority may not often arise, its usage could have increasing significance as the material in possession of the board becomes older and rarer.

**Debate adjourned, on motion by Mr. Davies.**

## **DAMAGE BY AIRCRAFT BILL**

### *Second Reading*

**MR. COURT** (Nedlands—Minister for Industrial Development) [5.17 p.m.]: I move—

That the Bill be now read a second time.

The Minister for Justice, when explaining this Bill in another place, informed members that it had been mentioned on several occasions at the various meetings of the Standing Committee of Attorneys-General, particularly in relation to the proposed uniform Bill known as the Aerial Spraying Control Bill. However, that touches on quite a different matter about which more might be said later.

This Bill emanates from Commonwealth ratification in 1958 of the Rome Convention of 1952 on damage by aircraft engaged in international navigation. The convention's main purpose was to ensure adequate compensation for persons suffering damage on the surface per medium of foreign aircraft. Basically, the Bill, in compliance with the Rome discussions, is based on strict or absolute liability on the part of the aircraft operator, except in cases of the victim himself being guilty of contributory negligence.

The Commonwealth legislation extended the convention's purposes in respect of international air travel to Australian aircraft on the domestic portion of an international flight and to foreign aircraft in flight over Australian territory.

The United Kingdom also passed appropriate legislation in 1959. New Zealand legislated in this matter much earlier—in 1948—and with respect to purely intrastate flights, Bills were passed in New South Wales in 1952, in Victoria in 1953, and in Tasmania last year. This Bill is similar to those passed in the other States.

This measure, when it passes into an Act, will uphold two principles. First, no action lies for trespass or nuisance arising out of the flight of an aircraft over any property at a height that is reasonable in the existing circumstances on condition that the Commonwealth Air Navigation Regulations are complied with. The second principle is that a person who suffers damage to his person or property caused by a person in an aircraft or by an article, animal, or person falling from an aircraft while in flight, taking off, or landing, can recover damages from the owner of an aircraft without proof of negligence; this, bearing in mind the proviso that the claimant himself is not guilty of contributory negligence.

It should be appreciated, however, that while this Bill enunciates two clear principles which do not necessarily alter the law, the passing of it will clarify the law in these matters. It could be argued that flight over land is a trespass equally with motoring across it, so the Bill proclaims in effect that planes are entitled to use air routes while observing navigation regulations and maintaining reasonable height without becoming liable for trespass or nuisance. On the other hand, there is no intention of authorising any act of nuisance or disposing of liability brought about through aircraft damaging persons or property by contemplated or unforeseen happenings.

It does set out, nevertheless, that it should be necessary for a claimant to prove negligence on the part of the owners or those operating the aircraft in order to successfully pursue a claim for damages. Simply, the Bill resolves any doubt or suggestion that a claimant need prove negligence, which, in actual practice, it would be most likely quite impossible for him to do, especially in the case of an aircraft crash in which all occupants could have perished.

Turning to the particular provisions in the Bill, it will be seen that in subclause (1) of clause 5, damages are recoverable from the owner of the aircraft; and under subclause (2), should a legal liability be created in some other person than the owner, the owner would be entitled to be indemnified by that person against any claim in respect of loss or damage. Under subclause (3) which covers hired aircraft, the person to whom the aircraft has been chartered or hired, would become responsible if neither the pilot, commander, navigator, nor operative member of its crew was in the employment of the owner.

From this it will be seen that should a passenger negligently, for instance, or deliberately throw his luggage overboard, a claim for damages would still be made against the owner, who would be entitled to be indemnified by the passenger concerned.

With regard to my earlier reference to liquid spray, this is contained in the definition of "article". The insertion of these words in the definition disposes of any doubt that such substances are covered by the provisions of the Bill. There is a reason for this. The New Zealand Bill was judicially considered in connection with aerial spraying in 1961, and though the New Zealand Court of Appeal held that, in the circumstances of the case, the word "article" in their definition included liquid and liquid spray, though they were not specifically mentioned, there are no known Australian authorities on the point. Therefore there are advantages in placing the matter beyond doubt by including those substances in the interpretation.

However, there is another good reason. Should it be desirable to introduce specific legislation dealing with aerial spraying control, the reference could be quite useful.

Debate adjourned, on motion by Mr. Hawke (Leader of the Opposition).

House adjourned at 5.23 p.m.

## Legislative Council

Tuesday, the 15th September, 1964

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