Noes—22

Mr. Bovell	Mr. Hearman
Mr. Burt	Mr. Hutchinson
Mr. Cornell	Mr. Lewis
Mr. Court	Mr. W. A. Manning
Mr. Craig	Mr. Mitchell
Mr. Crommelin	Mr. Nalder
Mr. Dunn	Mr. Nimmo
Mr. Gayfer	Mr. O'Connor
Mr. Grayden	Mr. Runciman
Mr. Guthrie	Mr. Wild
Mr. Hart	Mr. O'Neil
	(Teller)

Pairs

Ayes	Noes
Mr. J. Hegney	Mr. Brand
Mr. Curran	Dr. Henn
Mr. Oldfield	Mr. Williams

Majority against—1.

Amendment thus negatived.

Mr. TOMS: I move an amendment—

Page 3, line 30—Insert after the word "exempt" the following proviso:—

Provided that no disqualification under this paragraph shall apply to any person while he holds the office of mayor, president or councillor.

If this amendment is accepted it will break down the harsh provision that is being inserted into the Act. I hope the honourable member for Narrogin is with me on this. If the Government is prepared to accept the principle of this amendment we will have gone a little way to save something from the wreck, and the people who are holding office as mayors, presidents, or councillors will be saved a few heartaches.

Mr. W. A. MANNING: I would like your ruling, Mr. Chairman. I suggest that lines 29 and 30 should be deleted. I cannot see how this proviso can be inserted while those two lines remain in the clause. As the deletion of the whole subclause has been defeated, can these two lines now be deleted? I think it is essential they should be.

Mr. TOMS: For the purpose of clarification, I think a person will still remain mayor, president, or councillor, until he retires or is defeated at the poll. Therefore it will not be necessary to take out the two lines as suggested by the honourable member for Narrogin. While a person holds any one of these offices he will fill it until such time as he is defeated and a successor takes over.

Mr. NALDER: That is not my interpretation. A person will automatically complete the term for which he was previously elected. That is the point I made during the debate in the Committee stage. I am prepared to accept it on the basis that when a person applies to a council for deferment of rates, if he is a president, mayor, or councillor, he completes the term for which he was elected.

Mr. GRAHAM: I agree with the honourable member for Narrogin. In lines 29 and 30 we are saying that if so elected a person is disqualified from acting; and then we go on to say, "Provided that no disqualification under this paragraph shall apply." How can we say in the first two lines that he is disqualified and in the final two lines provide that he is not disqualified?

It does not make sense and I therefore suggest, in all seriousness, that the Minister should allow progress to be reported in order that the matter might be investigated.

Progress

Progress reported and leave given to sit again, on motion by Mr. Hawke (Leader of the Opposition).

ADMINISTRATION ACT AMENDMENT BILL

Council's Message

Message from the Council received and read notifying that it had agreed to the amendments made by the Assembly.

CHEVRON-HILTON HOTEL AGREEMENT ACT AMENDMENT BILL

Returned

Bill returned from the Council without amendment.

House adjourned at 12.18 a.m. (Wednesday)

Legislative Council

Wednesday, the 11th November, 1964

CONTENTS

The PRESIDENT (The Hon. L. C. Diver) took the Chair at 4.30 p.m., and read prayers.

QUESTIONS WITHOUT NOTICE

IRON ORE

Loading Facilities at Port Hedland: Tabling of Plans

1. The Hon. H. C. STRICKLAND asked the Minister for Mines:

In order that the people of Port Hedland and the general public may be enlightened on all possible land resumptions and affections to property which may result from the possible establishment of two iron ore loading plants and all the ancillary facilities in and adjacent to the town, the Minister is requested to lay the proposed plans of these undertakings on the Table of the House.

The Hon. A. F. GRIFFITH replied:

The honourable member was kind enough to advise me of his intention to ask the question, the reply to which is as follows:—

There has been close liaison between the two companies, the local authority, and the Government.

The local authority concurs in the port location proposals approved for Finucane Island and Cooke Point. It is premature to make public interim detailed plans and proposals beyond the port locations already made known as these have not yet been officially submitted under the respective agreements, and could be the subject of considerable variation in the light of discussions with the Government and the local authority.

At this juncture, no resumptions of private property are contemplated in and near the Port Hedland townsite. The exact locations and land requirements could not be assessed with accuracy at present. In any case, it must be appreciated that the next phase is dependent on current company negotiations for contracts for sale.

No final decisions regarding town and plant locations and layout will be made without consultation with the local authority.

For this reason it is not desired to lay the plans referred to on the Table of the House; but the honourable member may view them in my office if he so wishes.

END OF SESSION

Target Date and Wednesday Starting Time

2. The Hon. F. J. S. WISE asked the Minister for Mines:

There are very many obvious hapenings which forecast the end of the session in the near future, such as a motion for the partial revocation of State forests, kindly invitations from the President to a Christmas dinner, and so on. There are two things I would like to know: Firstly, can the Minister advise us of his intentions regarding the sitting on Wednesday of next week? Secondly, can he guess, or estimate, when the proceedings of this session may be completed?

The Hon. A. F. GRIFFITH replied:

To deal with the second question first, I think previously when asked by the honourable member I indicated it was the Government's desire to complete the session by the end of November. I think I remember adding also that if honourable members, in a spirit of co-operation, felt they could assist the Government by ending the session prior to that date, I did not think anyone would complain. In respect of next Wednesday, I think it would be desirable—and I say this in a spirit of co-operation—to sit at 2.30 instead of 4.30 p.m.; because if we sit at 4.30 p.m., we will have approximately only 1½ hours in the House that afternoon. In view of the look of the notice paper at present I think it would be to our advantage if we sat at 2.30 p.m. on Wednesday next.

The Hon. F. J. S. Wise: Thank you.

STATE FORESTS

Revocation of Dedication: Assembly's Resolution

Message from the Assembly requesting the Council's concurrence in the following resolution now considered:—

That the proposal for the partial revocation of State forests Nos. 18, 21, 22, 27, 30, 37, 38, 39, 48, 51, 52, 53, 56, and 59 laid on the Table of the Legislative Assembly by command of His Excellency the Governor on the 3rd November, 1964, be carried out.

THE HON. L. A. LOGAN (Midland—Minister for Local Government) [4.40 p.m.]: I move—

That the resolution be agreed to.

This is the usual proposal for the revocation of portions of State forests for the different purposes which I shall briefly explain to honourable members.

There is contained in the appropriate papers laid on the table full details of 15 proposed revocations, and these are supported by the requisite diagrams. Most of the areas concerning which a resolution of concurrence is sought are of little value as forest lands and are for exchange for more suitable forest country held by adjoining landholders.

The first of these contains 12 acres situated about five miles from Nannup, as a result of which the department would lose an area with little marketable timber and obtain land more suitable for pine planting.

The second contains 156 acres six miles from Donnybrook. All timber has been removed from it and the proposed exchange will bring in good pinus radiata land adjoining other areas purchased for planting. It is proposed to exchange eight acres of dieback land a mile from Karilla for an area carrying a healthy stand of jarrah. Area No. 5, comprising 57 acres five miles from Bridgetown denuded of marketable timber, would be replaced with land carrying jarrah forest including regrowth.

About 15 miles from Manjimup there is an area of about 135 acres of low-grade forest which may be exchanged for first-class pinus radiata country adjoining State forest. In the Pemberton area about nine miles from the town, it is proposed to exchange 252 acres of moderate forest for an equal area of prime karri forest. This is the area referred to as area No. 9 in the proposal.

Several landholders have applied for areas of State forests. One of these is about 10 miles from Manjimup and comprises six acres of a disused tramway strip resumed from the adjoining landholder in 1942 and no longer required for access to State forest.

The release of an area of about 10 acres eight miles from Manjimup would shorten the State forest boundary and simplify fire control. It is non-forest country applied for by an adjoining landholder.

Area No. 12 is also non-forest country situated about eight miles from Highbury with an area of 196 acres. It is outside the mallet area and protected by firelines, and its release would remove a fire hazard. The next area comes in four parts situate about five to seven miles from Yornaning. There are two, seven-acre lots, one of which is of five acres and another of 48 acres approximately. The exchange here will be for good mallet country. An adjoining landholder will take the three smaller areas and the largest will be released to another adjoining landholder.

There is little marketable timber on an area approximating 92 acres two miles from Margaret River. The release of this area would enable the adjoining landholders to qualify for assistance under the dairy farm improvements scheme.

Two revocations are in respect of important road deviations. One described as area No. 10 affects the South Coast Highway, which forms the boundary between a State forest and a national park reserve. The road deviation involves an exchange of areas between national park and State forest, the timber resources of which are comparable.

A new alignment of a section of the Manjimup-Nornalup road is about to be surveyed. This road also forms the boundary between a State forest and a timber reserve. The proposal here involves the transfer of an area of plain country containing a few isolated pockets of timber from the State forest to the timber reserve.

Area No. 11 in the proposal approximates 295 acres of land carrying no mallet and lying about 10 miles west south-west of Highbury. This area is outside the perimeter of fire lines constructed around the mallet country. Its release would remove a fire hazard and also enable the adjoining landholder to eradicate poison on the area.

Finally, area No. 4, about three miles west of Argyle siding, contains approximately 630 acres of open swamp and banksia country interspersed with low-grade forest of scattered marri and jarrah. All marketable timber is being removed.

A perusal of the complete details, which are provided in the proposal for these partial revocations, will confirm that good reasons are given in each case and I hope the Legislative Council will concur by carrying the required resolution which, together with the similar resolution already carried in another place, will enable His Excellency, by Order-in-Council, to revoke the dedications covered by the proposal in order that the respective areas of State forest may become Crown Land within the meaning of the Land Act.

Debate adjourned, on motion by The Hon. F. J. S. Wise (Leader of the Opposition).

LOCAL GOVERNMENT ACT AMENDMENT BILL (No. 4)

Second Reading

THE HON. F. R. H. LAVERY (West) [4.47 p.m.]: I move—

That the Bill be now read a second time.

The purpose of this Bill is to amend section 46 of the Local Government Act by deleting paragraph (b) of subsection (1). The idea is very simple. The Bill proposes to make it mandatory upon the Clerk of the Council of the municipality to prepare an electoral list for the district in accordance with the form in the fifth schedule, and where the district is divided into wards an electoral list for each ward. That is what is provided by subsection (1) (a) of section 46 of the Local Government Act. Paragraph (b) of subsection (1) of section 46 provides—

> The requirements of paragraph (a) of this subsection are sufficiently complied with, if one list is so prepared and completed as to show particulars relating to voting entitlement in respect of the wards, and those in respect of the district.

The reason the Bill seeks to repeal paragraph (b) is that there are a number of shires and towns which already prepare a ward roll, while there are others which do not. The idea is to make it mandatory for all of them to come under the fifth schedule, under which they shall all prepare ward rolls.

To explain a little further, there is at least one shire in my province where there is a complete shire roll and no ward rolls. This means that if there is to be a by-election, the candidate and those concerned with him have to completely analyse the whole roll to ascertain the names of the people in the particular ward in which the proposed by-election is to be held.

The Hon. J. Heitman: Can they elect in wards?

The Hon. F. R. H. LAVERY: This particular shire does elect in wards. I am speaking of Canning at the moment. The shire of Melville already prints a ward roll.

The Hon. L. A. Logan: The Town of Melville.

The Hon. F. R. H. LAVERY: I beg your pardon; the Town of Melville already prints ward rolls, and it is most convenient for those people who wish to do business in a particular ward. Not only does it assist the actual candidates for an election, but quite a number of business transactions are facilitated as well. I am referring to people who are trying to find out where land is situated and by whom it is owned. If there is only one roll they have to go right through that roll instead of finding the information in a ward roll.

I should not think this measure is very contentious, but I will not be surprised if the Minister in his reply says, "You know what you are doing; you are making it necessary to have ward rolls and also a composite roll in the cases where mayors or presidents are elected by the whole of the shire or town." That is not necessarily so. In the Bayswater shire there are ward rolls in three different colours; and they are stapled into one single roll. It is as simple as that.

I have in my hand the supplementary Commonwealth electoral roll for the division of Kalgoorlie, made up to the 26th October, 1964, and in it are the subdivisions of Boulder, Dundas, Gascoyne, Geraldton, Greenough, Kalgoorlie, Kanowna, Kimberley, and so on. So there does not seem to be any reason why it should represent an added cost to any shire to produce this roll. I can go further as a demonstration. In my hand is the West Province electoral roll made up to 1963, under the old system, and it is made up in districts. The first section is for Canning; the second, Cockburn; the third, Melville; the fourth, Fremantle; and the fifth, East Melville. One can still go to the printer and buy a roll for each of those districts or, if one so desires, one can buy a composite roll.

I do not wish to weary the House any further; and I do not think there is anything further that I need say.

Debate adjourned, on motion by The Hon. L. A. Logan (Minister for Local Government).

COUNTRY AREAS WATER SUPPLY ACT AMENDMENT BILL

Second Reading

THE HON. L. A. LOGAN (Midland—Minister for Local Government) [4.55 p.m.]: I move—

That the Bill be now read a second time.

The object of this Bill is to implement the Government's proposals for uniform charges for water in country areas. There are amendments also which will be beneficial in the administration of the Act.

The Minister for Water Supplies pointed out when introducing the Bill in another place that the proposed change in the system of charging is regarded as the most far-reaching that has ever been made in this State and that we are the first in Australia to implement the principle of granting no water allowance for rates paid. The new charges which will operate throughout all country schemes have been drawn up on a "pay-for-use" basis.

The Bill contains, therefore, proposals to alter the conditions under which the department at present levies rates. The Act lays down that rates should be levied on an annual value basis if land is situated within a country water area, a rating zone, and a townsite, but on an area basis if land is situated within a rating water area of a rating zone but outside a townsite.

Since the Country Areas Water Supply Act came into force, the repeal of the Goldfields Water Supply Act and the transfer of departmental supplies from the provisions of the Water Boards Act, some anomalies have crept in. There are instances where large housing subdivisions have taken place outside townsite boundaries. There are others where practically no improved properties exist within townsite boundaries. On the Midland railway line, there are several towns spilling over to land formerly subdivided by the Midland Railway Company and outside the townsite boundaries.

The Act is now to be amended to permit rating to be more closely related to the purpose for which water is required. Farm lands will be rated on an area basis; and other lands, including domestic, trading, and the like, on an annual value basis. To facilitate this, the provisions relating to townsites, country lands, and rating zones are to be abolished.

Greater emphasis will be placed on the quantities of water used for separate purposes as domestic residences, offices, shops, etc., representing establishments where water is not an essential commodity in processing or manufacturing. Others will be separately provided for as trading and industrial concerns using water for processing or manufacturing, mining, market gardens, and orchards. Differential rating provisions based on water usage are to be introduced.

The Minister for Water Supplies pointed out that the new rates and prices will eliminate scores of anomalies and provide a fair and equal basis for the charging of all consumers. A sliding scale of charges will protect moderate consumers with heavier charges for heavier consumption. This is expected to encourage care in the use of water.

Based on the 1962-63 water consumption figures, the new charges are expected to result in an additional £31,000 a year loss to the Government. The 1962-63 loss amounted to £2,100,000 on country water, yet the additional loss proposed through these amendments is considered justified in the long view, which encompasses such desirable reforms as uniformity, encouragement of water conservation on the land wherever this is possible, and the pay-as-you-use system.

Nearly 51,000 country water consumers will be affected, of which nearly 5,000 still unmetered services will be metered to ensure complete uniformity. Meter rents will be discontinued, and when the new charges are introduced from the 1st January next all consumers will receive an explanatory circular. The spread of rating years over the calendar will be discontinued, and the new prices and rates will be applied to all as from the beginning of 1965.

There are at present six categories of country consumers, about 36,000 of whom are domestic consumers. At least 90 per cent. of these will pay less for their water under the new system. The heaviest consumers with the highest value property will likely pay a little more. The new rate will be equivalent to a rental. It will be 1s. 6d. in the pound, and all consumers will be charged for the water they use. The price will be 2s. per thousand gallons for the first 60,000 gallons, 2s. 6d. for the next 40,000 gallons, and all consumption in excess of 100,000 gallons will be charged at 3s. per thousand.

Comparative charges under the existing system are as follows; and it will be seen they are quite complicated: The charge is 3s. in the pound, except at Waroona (2s.), Manjimup (2s. 6d.), and Albany (2s. 9d.). There is a water allowance calculated at present on the basis of 1,000 gallons for every 4s. of rates paid in most centres with 22 exceptions ranging from 2s. at Roebourne and Wagin to 4s. 6d. at Beverley, York, and the goldfields. Excess water is charged at the rate of 3s. per thousand gallons with 33 exceptions ranging from 1s. 3d. at Collie to 2s. 9d. at Beverley. This complex system contains 55 different variations in country water rates.

Some comparisons may be useful. At present a consumer on an annual rental value of £120, using 60,000 gallons of water, would pay a total of £18. Under the new system, he will pay £15, of which £9 will be rates. With a £30 annual rental value, and using 20,000 gallons, a person now pays £4 10s. It will be 5s. less under the new system. An extremely high rental value of £240 in association with high consumption of, say, 240,000 gallons costs £45 for water now and will cost £50; but this is an extreme case. Valuable properties will entail increases of only about £1 to £3.

There are 6,500 consumers in the category of offices, shops, garages, flats, hotels, and so on—not essentially water consuming activities—being charged the same rating as domestic consumers, excepting that excess charges range from 2s. to 7s. per thousand. The rating under the new scale will be 2s. in the pound, and for the first 200,000 gallons the charges will be the same as for domestic use, but for any additional water they will pay 4s. per thousand. The 390 consumers in the category of trading and industrial now pay at

the same rates as offices and shops. In the future they will not be charged rates at all, only 4s. per thousand gallons for all water consumed.

At present, mining and shipping consumers pay no rates. Mining charges range from 3s. 6d. to 7s. per thousand gallons. The main consumers, the goldmines at Kalgoorlie and Boulder, pay 5s. 1d. per thousand gallons. This will be increased to 5s. 6d. per thousand gallons. Seventeen goldmines are in this category. Charges to shipping consumers range from 3s. to 6s. per thousand, and these will also be increased to 5s. 6d. per thousand. Country harbour authorities around the coast from Esperance to Wyndham will be affected.

Farmers other than market gardeners comprise another group of 5,800 consumers. They at present pay a rate of 5d. per acre with rebate and excess water both at 4s. per thousand gallons. In future, water will be charged at 2s. per thousand gallons for the first 60,000, 2s. 6d. per thousand for the next 40,000 and 5s. 6d. thereafter. Generally speaking, this group, in common with mining and shipping customers, will pay a little more for water. They will be rated at 2.4d. per acre, but there will be no water allowance in respect of the rates paid.

The group comprising 150 market gardeners now pay a rate of 3s. in the pound with a water allowance of a thousand gallons for every 4s. of rates paid. Excess water charges range between 2s. and 2s. 9d. per thousand gallons. Under this Bill they will not be rated, but will pay a uniform service charge of £5. Instead of a water allowance, they will pay for all water according to use at 2s. per thousand gallons for the first 60,000 gallons, 2s. 6d. for the next 40,000 gallons and 3s. thereafter.

In addition to the categories mentioned, there will be 2,260 consumers in a special group, who will not be rated but who will pay the uniform £2 service charge and 2s. 6d. per thousand gallons for all water used. This category includes hospitals, orphan and old age homes, schools, parks, recreation grounds, clubs, swimming pools, churches, convents, manses, bowling clubs, licensed clubs, Country Women's Association restrooms, students' hostels, youth clubs, scout groups, racecourses, cemeteries, St. John Ambulance centres, sporting clubs, showgrounds, and fire stations. Comments concerning several other categories may be appreciated.

Railways will be included under trading and industrial concerns. State Government departments, municipal establishments, police stations, lodges and private halls will be included in the same category as offices and shops.

Orchards, pig and poultry farms, and other farmers of this kind, will be classified as market gardeners. Vacant land which has a water service provided will be rated and charged in accordance with its classification, but where no service is supplied there will be a uniform charge of £2 per annum. Water will be supplied at stand pipes and for street watering at 2s. 6d. per thousand gallons.

The Act as present allows for rating for a part of the year only if there is an alteration in the financial year. This should be allowed for any reasonable purpose, especially when there is the safeguard in the Act that the water rate for that part of the year shall be at the same ratio to the rate for the whole year, as part of the year, for which the rate is made and levied, bears to the whole year.

Recourse has been made in the past to temporarily altering the financial year in order to rate for a portion of the year. A case in point was the occasion of the transfer of the Kalamunda supply to the Metropolitan Water Board.

The main force of the amendments in this measure is contained in clauses 14, 15 and 16. Clause 14 amends section 63 and provides that the Minister may make and levy rates in respect of all ratable land other than farm lands, when such land is situated wholly or partly within 100 yards of any main from which the Minister is prepared to supply water. Similarly, rates may be levied on all ratable farm land, but only to a distance not exceeding one mile and a half from the pipe, when such land is situated wholly or partly within 10 chains of any main.

Clause 15 amends the Act by inserting a new section—63A—which provides for the prescribing of classes of purposes for which water may be used and for the classification of ratable land in appropriate classes.

Clause 16 amends section 64 to provide for rates to be made and levied for each country water area, and for different parts of an area, and that they may be varied in respect of any holding or part of a holding.

There is a provision for a country water area to be constituted under the Act instead of being declared by proclamation. "Farm land" is defined, and "country land," "rating zone" and "townsite" are to be deleted.

The term "rating zone" gives way to the term "country water area" in several parts. Similarly, "country land" becomes "farm land." The word "estimated" is to be inserted before all reference to valuation or net annual value.

Present procedures allowing the "estimated ratable value" of the land to be shown in the formalities to be performed before undertaking the construction of any water works are preferable to the provision in section 15 requiring the value of the ratable land to be shown. Clause 6 regularises present procedures.

Though removed from the interpretation clause, "ratable land" is contained now in the new section 46A. Clauses 3 (g) and 8 contain necessary provisions to bring the section into line with the Country Towns Sewerage Act, because some properties are exempt from sewerage rating but not from water rating.

Section 48 of the Act provides in subsection (d) that the annual value may be assessed on the yearly rental less rates, taxes, and maintenance. I made earlier reference to this point, and the relevant amendment appears in clause 9. This will eliminate the possibility that valuations may be challenged on the score that actual rates and taxes are not allowed in each separate case.

Section 69 is being amended by clause 20 with a view to clarifying the position regarding interim valuations of land following improvement, damage or demolition. Clause 6 empowers the Governor to declare land in country water areas exempt from rates and, conversely, to declare land exempted to be ratable.

Under clause 24, the Governor may make by-laws to prescribe the purpose and classes of purposes for which water may be used, for the classification of holdings, and for the prescribing of charges for water.

Reference was made earlier to our leading the way in legislation of this nature; and, in addition, I am further advised that South Australia is now following the lead of Western Australia in regard to metropolitan water rating. This Bill, of course, deals with charges for water to farm lands and country towns, and in this respect, too, I understand we lead the way.

Debate adjourned, on motion by The Hon. W. F. Willesee.

MOTOR VEHICLE (THIRD PARTY INSURANCE) ACT AMENDMENT BILL (No. 2)

Second Reading

THE HON. E. M. HEENAN (North-East) [5.9 p.m.]: I move—

> That the Bill be now read a second time.

This Bill is very similar to the one I introduced last year, which honourable members will no doubt recall. The Bill consists of four clauses. Clause 1 deals with the short title and citation. Clause 2 deals with commencement and states—

> This Act shall come into operation on the first day of July, one thousand nine hundred and sixty-five.

The reason for inserting that is to give the Premiums Committee an opportunity of adjusting premiums to meet the added expense which will be entailed if this measure is adopted. I believe that license fees on motorcars are payable about that time. The idea is that the Bill will not come into operation until the 1st July, 1965.

Clause 3 seeks to amend section 6 of the principal Act, which reads as follows:—

> In order to comply with this Act a policy of insurance must—
>
> (a) be issued by the Trust;
>
> (b) except as provided in this section insure the owner of the vehicle mentioned in the policy and any other person who at any time drives that vehicle, whether with or without the consent of the owner, in respect of all liability for negligence which may be incurred by that owner or other person in respect of the death of or bodily injury to any person—

It is proposed to insert after the word "person" the words "including the spouse of that owner or other person". The idea is that the policy shall cover the injured spouse of any person who has driven a motor vehicle negligently.

Clause 4 proposes to add a further section; namely, section 32A, which simply provides that no liability beyond that covered in the policy will accrue. At present, passengers in a car are limited to the recovery of £6,000 each, and that limit will continue to be imposed if this Bill is passed. There is also a provision that the Bill will not apply to any accident that happens before the enactment of this measure.

The Bill will not derogate from any rights that will accrue under the Married Women's Property Act of 1902, but that is not of great consequence. Under the Motor Vehicle (Third Party Insurance) Act the liability of the trust which is set up under the Act is specified in section 7, which reads as follows:—

> Any person who has obtained a judgment against an insured person in respect of death or bodily injury caused by negligence in the use of a motor vehicle specified in a policy of insurance under this Act may recover by action from the Trust such amount of the money (including costs or a proportionate part thereof) payable pursuant to the judgment as relates to death or bodily injury and is unsatisfied:
>
> Provided that—
>
> (i) When the judgment against the insured person was obtained within the State, this subsection shall not apply unless before the action in which such judgment was obtained came on for hearing, the Trust knew that that action had been commenced; and

(ii) the right to recover under this subsection shall be subject to any limitations prescribed by the policy of insurance as to the amount in respect of which the insured is indemnified.

It follows, therefore, that first of all, when a person has suffered injury or met his death through the negligence of another, such person, or his representative, has to sue the negligent party and obtain judgment. Having done that, the Motor Vehicle Insurance Trust is liable for the damages, limited, of course, by the insurance policy. The position, therefore, is that any member of the public who is caused injury by the driver of a motor vehicle can ultimately obtain damages from the Motor Vehicle Insurance Trust. When I say "anyone" I include the ordinary man, woman, or child.

I also include a son or daughter of the person who is negligent. I also include the mother or father of the person who is negligent. I also include the fiance, or the *de facto* wife, or the best friend of the person who is negligent. Therefore the position is that if any individual in any one of those categories of persons is travelling in a motor vehicle as a passenger and the driver becomes involved in an accident and that person is caused injury and can establish negligence against the driver he can sue him and, having obtained judgment, recover damages from the Motor Vehicle Insurance Trust.

I repeat: If I am driving a motorcar and I fail to give way to the right and I become involved in an accident, my child, who may be injured, can sue me. If my mother or father happened to be a passenger in the vehicle and he or she is injured, I can be sued by either one of them. If my fiance, whom I am going to marry next week, is injured in the vehicle, she can sue me. If I have a *de facto* wife travelling with me and she is injured, she can sue me. If my best friend is travelling in a motor vehicle with me and is injured, he or she can sue me.

The only person who cannot sue me is my wife; or, in reverse, if my wife is driving the motor vehicle and she is negligent, and I am injured as the result of an accident, I cannot sue her. That is the state of affairs which this Bill proposes to remedy. I am sure it seems to many honourable members an untenable situation, and I am sure that several must wonder how it comes about. It comes about in this way: Under common law there is a dogma that one spouse cannot sue the other spouse in tort. That is a common law rule which has been part and parcel of the law for a long time.

The Hon. G. C. MacKinnon: It has a pretty sound foundation.

The Hon. E. M. HEENAN: The origin of the rule has been traced to the doctrine of the unity of husband and wife. Husband and wife are regarded, in law, as one person, and one spouse cannot sue the other since, technically, it would be a case of one person suing himself. Another basis for the rule, undoubtedly, was public policy, because the view was always held that it would be unseemly, distressing, and embittering for such litigation to take place between spouses.

That seems to be the origin of the common law rule: that husband and wife, once they marry, become one entity in law and therefore cannot sue one another. There seems to be good basis in the fact that litigation between husband and wife would be unseemly and against public policy.

In recent years, however, there has been a trend to modify the manifest injustices that can arise under this common law rule. For instance, in 1948, there was a case in England that went before the Court of Appeal in which a wife was allowed to recover damages nominally from her husband for personal injuries caused by his negligent driving just before they were married. The wife did not commence her action until some time later when they were married, and the Court of Appeal allowed her to recover damages from her then husband.

This situation has been accentuated in recent times with the greater use of the motorcar and with the advent of such insurance schemes as we have under our Motor Vehicle (Third Party) Insurance Act, whereby everyone who drives a motor vehicle has to take out an insurance policy, and the money paid in premiums is put into a common fund which is administered by the Motor Vehicle Insurance Trust.

It is needless for me to point out that in these days most people own motorcars, and their use seems to be increasing at a rate for which our society finds difficulty to cater. Roads have to be widened, and governments and public-spirited bodies are concerned all the time with with the problems which keep mounting from day to day as a result of the increased use of the motorcar.

We have very good legislation in the Motor Vehicle (Third Party Insurance) Act, which has not been in operation for so very long. Some honourable members will recall instances of people being fatally or seriously injured in recent years, and when they sought to recover damages against the offending party they could not recover anything, because frequently the offenders were persons of no financial standing. As a consequence some people who were injured in motor accidents had to meet heavy hospital and medical bills.

Some of them were crippled for life, but the persons against whom liability existed were persons of straw.

In our wisdom we corrected that position by enacting the legislation which I now seek to amend. It is a good Act, but the costly claims keep mounting and the trust is hard put to it to meet the increasing commitments, while at the same time it is trying to help the public by keeping the premiums as low as possible. Everyone should bear in mind that this is a form of insurance which is absolutely necessary in these days; and, of course, the people have to pay for the protection which such insurance offers.

The fact that a husband cannot recover damages against his wife when he is seriously injured by her negligence, or *vice versa*, has been strongly criticised. This has been criticised by judges, law societies, and numerous other influential people and bodies. Nowadays this state of affairs seems to be absurd, because a person pays his insurance premium and that protects him against a claim which may be made against him by any member of his family, other than his wife. That seems to be quite unfair, because in these days the negligent husband is only the nominal defendant.

If my wife were to drive negligently and injure me, I might be crippled for the rest of my life, or I might be prevented from earning a living for a long time. Although my wife has contributed to the insurance fund I cannot recover damages from her, simply because of the old common law rule, which really has no application to such a case. If a writ could be issued it would really be the motor vehicle trust which would be the defendant. The trust would defend the claim, and its lawyers would contest the suit in court. My wife plays only a nominal role as defendant, and when it comes to paying damages, it does not cost her a penny. It is the insurance company which pays the damages.

For that reason I argue there is strong justification for this Bill which I am presenting to the House. The selfsame principle has operated for some years in England and in South Australia. I am sure that the Minister for Justice—if he feels inclined to speak during the debate —will be prepared to tell the House this proposition has received the consideration of the Standing Committee of Attorneys-General.

The Hon. A. F. Griffith: I cannot tell you that, because it would not be correct.

The Hon. E. M. HEENAN: I am surprised to hear that comment from the Minister. I thought otherwise.

The Hon. A. F. Griffith: Not to my knowledge.

The Hon. E. M. HEENAN: There is the position as I have outlined it. One argument which can be used against the proposition in the Bill is that it will bring about an increase in the cost to owners of motor vehicles.

The Hon. G. C. MacKinnon: Another objection would be the possibility of a man making a profit from his negligence.

The Hon. E. M. HEENAN: I am glad to hear that point mentioned, and I shall deal with it later. Let me deal firstly with the increased cost. I endeavoured to obtain some information to enlighten the House. Although I was on to something in the recent report of the Premium Rates Committee, I was not able to locate what I was looking for. I understand that a general estimate of the added cost is 5 per cent., and the Minister can correct me if I am wrong. The nearest estimate I could obtain was that this proposition would involve an increase of 5 per cent. in the premium, which is equivalent to 1s. in the pound.

Another argument that is sometimes used against the proposal in the Bill is the possibility of collusion between spouses. If there is any basis in that argument, is it not just as likely there could be collusion between a father and son, a man and his mother, a man and his niece, a man and his *de facto* wife, or a man and his girl friend? Very severe penalties are provided under the criminal law for people who try to defeat the ends of justice by collusion. I do not think there is any basis for that argument.

Yet another argument I anticipate is this: If I am driving, and through my negligence my wife is injured, she can recover £6,000 damages—which is the limit —from me, as a result of which I benefit from my own default. She is my wife and can receive £6,000 damages from the Motor Vehicle Insurance Trust, from which I benefit. My answer to that argument is: Who benefits from the suffering and injuries, when monetary damages are recovered? That applies to any form of insurance. A person may insure his home against fire, but does he make a profit if it is burnt down? Does the miner who suffers from silicosis make a profit through the ruination of his health? Does the unfortunate young man who is seriously injured in a motor accident and receives £10,000 in damages make a profit? Very often when we read about the large sums which are awarded as damages, we forget that they include heavy hospital and medical expenses, heavy legal costs, and the loss of wages. I do not think there is any validity in that argument.

This poses a principle. I think the time has arrived when we should adopt the proposition that one spouse should not be prevented from suing the other, particularly when we realise the great use that is

being made of motor vehicles these days, the increasing liability to accident, and the great financial loss, as well as the fact that the spouse who is to be sued is only a nominal defendant, the real defendant being the Motor Vehicle Insurance Trust, to which everyone contributes.

Those are the arguments I advance in support of the Bill which is now before the House. I repeat again that the principle has been accepted in England for some years and it has been accepted in South Australia for some years. I know all the other States are considering its adoption. However, I do not see why we should wait until every other State in Australia adopts it, and I therefore hope that the House will pass the Bill on this occasion.

Debate adjourned, on motion by The Hon. L. A. Logan (Minister for Local Government).

COAL MINE WORKERS (PENSIONS) ACT AMENDMENT BILL

Second Reading

THE HON. A. F. GRIFFITH (Suburban—Minister for Mines) [5.47 p.m.]: I move—

That the Bill be now read a second time.

When a mineworker becomes totally incapacitated owing to injury received during his employment, the payment of pension benefits is delayed on account of the lump sum payment for workers' compensation. The period over which this delay occurs is ascertained by dividing the workers' compensation payment by the maximum weekly compensation payable under the Workers' Compensation Act.

This Bill contains an amendment to the Coal Mine Workers' Pensions Act which will discount the lump sum payment by any part of such compensation payment used by the worker to purchase a home or to redeem any mortgage on his home. The lump sum payment will be discounted also by any amount used by the worker in the payment of medical expenses incurred in respect of the incapacitating injury; i.e., over and above the limit imposed by the Workers' Compensation Act.

The provisions now to be inserted into the parent Act are the same as those contained in the coalminers' pension legislation in New South Wales, about which representations have been made by the mining unions at Collie with a view to our bringing our legislation into line with the New South Wales Act in respect of the effect of the workers' compensation payments on coalminers' pensions.

It is also proposed in this regard that any period of disqualification from receipt of pension benefits, because of lump sum compensation payments, should be limited by the normal retiring age of 60 years.

The next amendment to which I desire to refer is that designed to alleviate the position of certain workers retrenched at Collie in December, 1960, when the Amalgamated Collieries of W.A. ceased operations. On that occasion, an estimate of the number of workers which would be required in the industry was made. As a consequence of this estimation, many men found they could not be reabsorbed into the coalmining industry. Their contributions were refunded under section 21, subsection (5A) of the Act as they were persons unable to be re-employed in the industry under the provisions of that section.

As is well known, it was found subsequently that more men would be needed at Collie than was originally thought, and in order to maintain coal production some of the workers previously regarded as surplus were re-employed. Nevertheless, the Act provided that such workers over the age of 35 years and re-employed did not qualify for pension benefits on attaining the age of 60.

The proposal in this Bill will enable miners affected by these provisions to repay to the pension fund the amount refunded on retrenchment in 1960. If these repayments are made within three months of the commencement of this facilitating measure, and in respect of those who will have paid contributions to the fund for a period aggregating not less than 25 years, eligibility for retirement benefits on attaining the retiring age of 60 will be reinstated.

Finally, action is taken to put through some necessary amendments to references to the Court of Arbitration which still remain in the Act. In addition to bringing the references up to date in respect of the Industrial Commission, opportunity is being taken to clarify the matter of disputes. The Industrial Commission is authorised under this Bill to have jurisdiction to hear and determine any question referred to it.

The desirability of clarifying this matter beyond doubt arises out of a previous case referred by the Minister to the Arbitration Court, as a consequence of which there was some disagreement because of there being no positive reference in the Act that the Court of Arbitration had, at that time, jurisdiction in any dispute referred to it.

Debate adjourned, on motion by The Hon. D. P. Dellar.

COMPANIES ACT AMENDMENT BILL

In Committee, etc.

The Deputy Chairman of Committees (The Hon. G. C. MacKinnon) in the Chair; The Hon. A. F. Griffith (Minister for Justice) in charge of the Bill.

Clause 1: Short title and citation—

The Hon. A. L. LOTON: I thank the Minister for the remarks he made last night when replying to the second reading debate. There are just a few points I would like to bring to the attention of honourable members regarding a most interesting document the Minister spoke about last night. I will read a few extracts from it, but every honourable member should make it his business to obtain a copy of it and study it because it does indicate the ramifications and malpractices which some people will indulge in to achieve certain ends.

It is amazing to find that people of alleged high standing in a community will descend to such a low level to obtain for themselves pecuniary benefit. They drag those who invest with them to the very lowest depths, because there is no redress for those who invest their money in companies which are allegedly of good repute.

This is an interim report drawn up by one Murphy, who is a Q.C. He was appointed to make an investigation under the Companies Act of 1961 into the following companies:—

1. Stanhill Development Finance Limited, formerly known as Stanhill Finance Corporation Limited.
2. Stanhill Consolidated Limited, formerly known as Stanhill Holdings Limited.
3. Factors Limited, formerly known as The Automobile Finance Company of Australia Limited.

Those who follow the news closely will have noticed that Factors Limited received a mention in last night's *Daily News*. To continue—

4. Chevron Sydney Limited.
5. General Investments and Discounts Proprietary Limited, formerly known as General Investments and Discounts Limited.
6. Banyule Australia Pty. Ltd., formerly known as Stanhill Limited and Stanhill Pty. Limted.
7. Park Lake Pty. Limited, formerly known as Stanville Limited and Stanville Pty. Limited.
8. Banyule Pty. Limited.
9. Stanhill Estates Pty. Limited, formerly known as Stanhill Estates Limited.
10. Stanhill Development Proprietary Limited, formerly known as Stanhill Development Limited.
11. Dominion (Pty.) Ltd.

The following are the opening remarks to the Attorney-General:—

> Sir,
>
> In August, 1963, I was appointed to investigate the affairs of the above-mentioned companies which were declared under Division 4 of Part VI. of the Companies Act, 1961, and to report thereon in writing to you. In October, and December, 1963, I was appointed an Inspector in New South Wales and Queensland under the corresponding provisions of the Companies Acts of those States, each of the companies having been declared for investigation in those States.
>
> Only the above-mentioned eleven companies have been specifically declared but, taking into account the subsidiaries of Stanhill Consolidated Limited and Factors Limited, many of which were active, some 150 companies are necessarily involved in my investigation.

So out of the 11 companies to which I referred, 150 companies were found to be involved when the investigations commenced. To continue—

> Appendix A (Page 82) sets out tables showing the structure of some of the larger and more intricate of the companies declared.
>
> I believe it to be important in the public interest that I make this interim report without further delay. If I were to wait until I have completed my investigation of all the companies, a course which would involve the presentation of a massive report, then some remedial steps, which it may now be thought wise to take, could be hindered or even barred by lapse of time.
>
> For many reasons, I have chosen to report first upon the affairs of Stanhill Development Finance Limited. This Company was the last of the public companies to commence its operations, it was without subsidiaries, and its activities, I believe, may fairly be taken as characteristic of the more complex activities of the other public companies upon which I shall report as soon as possible.
>
> I intend to set out in some considerable detail the transactions, workings and business activities of S.D.F. I would not necessarily intend to follow this course when reporting upon each of the other companies, but in making this interim report on the affairs of S.D.F. it seemed to me to be necessary to set out facts and information in sufficient depth to provide vou with some understanding of the manner in which the day-to-day affairs of this Company were conducted.

Then on page 2 he made these remarks—

> In the eyes of the law each company had a separate entity, distinct in existence from each other company. The shareholders, debenture holders, noteholders and creditors of each company could look only to that particular company to declare dividends on shares, to pay interest on notes and debentures and to redeem debentures and pay the amounts due in respect of loans and trading commitments.
>
> But, in the minds of most of the directors of the four public companies, Stanhill Consolidated Limited, Factors Limited, Chevron Sydney Limited and Stanhill Development Finance Limited, the individual companies were mere parts of a whole. Indeed, they treated large numbers of companies as forming a vague entity, unrecognized by the law, which they referred to as the "Group". Consistently with this view, the principal directors did not make any attempt to segregate their interests, but rather devoted themselves to the administration of the affairs of the "Group" as a whole. S.D.F., which is the substantial subject of this interim report, seems to have been regarded primarily as a source of funds to finance the operation of other companies—some of them private companies—within the "Group."

The directors or officers of Stanhill Consolidated Limited are then listed as follows:—

Stanley Korman
David J. Korman (a son of S. Korman)
Leon I. Korman (a son of S. Korman)
Kilel Korman (a brother of S. Korman)
I. K. Redpath
Sir J. McCauley
Sir W. Bridgeford
N. W. Strange
J. C. Carrodus (Secretary)

Mr. Murphy then goes on—

> In these circumstances the directors of each of these companies should have been particularly careful to remember that each company was a separate corporate entitity with different shareholders and creditors and that transactions *inter se* should have been conducted at arm's length. But as this report will show, such care was conspicuously lacking in the conduct by the directors of the day-to-day affairs of the companies.
>
> Time and time again transfers of money were made from one company to another, without any apparent thought as to the wisdom of the transfer from the point of view of the company from whose funds the money came. Within the "group", the directors often sold or mortgaged land from one company, which they directed, to another company, which they also directed. If subsequently, they thought that the same land might have been sold or mortgaged elsewhere by the original owner to better advantage, they disregarded the original sale or mortgage and re-arranged matters to suit the exigencies of the moment. They did this without any regard to existing rights or obligations. Having abandoned, if indeed they ever entertained, the concept of responsibility to an individual company, their position as directors of that company became more and more unreal.
>
> Quite apart from this, one gains the impression that some of the directors were bemused by the speed and multiplicity of inter-company transactions and that the structure which they had created, overwhelmed them.
>
> Several of the directors tended to regard these inter-company transactions in the same inconsequential manner which might be adopted by a man transferring money from one pocket of his suit to another. And the transfers occurred with such frequency that, at times, no director could be sure in which pocket the money was, and in any event, the location of the money seemed to many of the directors to be a matter worthy of little concern, so long as the money could be found somewhere in the suit.

Then this company decided to fund Chevron Sydney Limited. The report goes on—

> Although the public had subscribed £3,500,000 to the company solely for the erection of an hotel in Macleay-street, Chevron, Sydney proceeded to commit itself to pay some £2,164,780 in the purchase of a number of properties in and around Sydney and in country districts of New South Wales. Some of these Sydney properties were necessarily purchased to house tenants evicted as a result of the acquisition of the hotel site; others of them were said to be purchased in order to preserve the view from the proposed hotel. But a large proportion could not be said to fall into either of these categories and were really, as Sir John McCauley informed me, regarded as "prime sites for development."

Then, on page 13 there is a prospectus dated the 15th July, 1960. This was to raise some of the authorised capital of the company, which was £5,000,000. The issued capital of the company was five ordinary shares of 5s. each. The shares offered for subscription were 3,000,000 ordinary shares of 5s. each, and shares held in reserve were 16,999,995 ordinary shares of 5s. each.

The whole issue was underwritten by Underwriting Brokers, Walter P. Hamm and Co., Patrick and Company, Corrie and Co., A. S. Fotheringham and Co., T. A. James and Co., and H. W. Bayley and Co., members of the Stock Exchanges in Melbourne, Sydney, Brisbane, Adelaide, Perth, and Hobart respectively.

The DEPUTY CHAIRMAN (The Hon. G. C. MacKinnon): Order! I take it that the honourable member will connect the report from which he is reading with the Bill.

The Hon. A. L. LOTON: Yes, the report deals with companies.

The DEPUTY CHAIRMAN (The Hon. G. C. MacKinnon): I realise that. I suggest the honourable member does connect it to the Bill in some way.

The Hon. A. L. LOTON: I am pointing out the weaknesses of our present legislation and illustrating what some companies will attempt. Unless the companies legislation is tightened up to a degree the same thing will occur again.

The Hon. H. K. Watson: Connect the remarks to the Bill or the clause?

The DEPUTY CHAIRMAN (The Hon. G. C. MacKinnon): Connect them to clause 1—short title and citation.

The Hon. A. L. LOTON: That is why I seized on this opportunity. It is the usual practice to speak to the title of the Bill when one does not wish to speak to any particular clause. The report goes on as follows:—

> The underwriting expenses paid by S.D.F. as commission on the issue totalled £81,250 and the preliminary expenses of the Company up to the 31st July, 1961, including underwriting commission, entertainment expenses, advertising and the like totalled £147,137.
>
> The expenditure of some £25,945 on advertising and £2,794 on entertaining brokers, including a dinner, indicates the large sums which the directors thought it necessary to spend, apart altogether from brokerage, in order to ensure that the issue be fully subscribed.
>
> The fact that "£2,000,000 was received within 24 hours and the issue was heavily over-subscribed" (quoting from Mr. N. W. Strange's address to shareholders on 16th July, 1962), proves, one might suppose, that this large expenditure of money by way of preliminary expenses assisted in achieving the purpose desired by the directors.

I will not weary honourable members further, but I would like them to study page 41 when they read the report which refers to a round robin. I will read another small quotation, which is as follows:—

> In this report I have termed this series of transfers the "Round Robin". But, in whatever way it may best be described, it was a transaction which depended upon the simultaneous passing of cheques by Company A to Company B to Company C to Company D to Company A.

The sum of £776,053 13s. 3d. was manipulated so that it went into one account and out again.

Every company was fluid according to the figures, yet that one amount passed through the hands of eight institutions in the one day. I have taken this opportunity to draw the attention of honourable members to this matter, and I hope that every honourable member will obtain a copy of this report, study it, and see the ramifications which took place regarding this particular company.

Clause put and passed.

Clauses 2 to 11 put and passed.

Sitting suspended from 6.10 to 7.30 p.m.

Clause 12: Section 74F added—

The Hon. A. F. GRIFFITH: I move an amendment—

> Page 24, line 6—Insert after the word "particulars" the passage "with respect to each corporation that is so deemed,".

There has recently been another meeting of officers, and our Registrar of Companies was at that meeting. In view of some of the deliberations of the officers it was considered desirable to move this small amendment. It is designed to ensure that where a borrowing corporation gives particulars of the amounts loaned to its related corporations it gives the amounts applicable in the case of each such corporation rather than the total of the amounts so loaned.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 13 to 17 put and passed.

Clause 18: Section 162 amended —

The Hon. A. F. GRIFFITH: I move an amendment—

> Page 34, line 26—Insert a semicolon after the word "thereof".

This is purely a drafting matter.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 19: Section 167A added—

The Hon. A. F. GRIFFITH: I move an amendment—

> Page 35, line 11—Insert after the word "corporation" the words "or a guarantor corporation".

New subsection (2) obliges the auditor of a borrowing corporation to make a report in certain circumstances to the trustee for that corporation's debenture holders. The amendment imposes a similar obligation upon the auditor of a corporation that has guaranteed the repayment of the debentures issued by a borrowing corporation.

Amendment put and passed.

The Hon. A. F. GRIFFITH: I move an amendment—

> Page 35, line 16—Delete the word "that" and substitute the words "the borrowing".

This is a consequential amendment.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 20 put and passed.

Clause 21: Section 171 amended—

The Hon. A. F. GRIFFITH: I move an amendment—

> Page 36, line 5—Delete the word "all".

The deletion of the word "all" will make it necessary for the inspector to stipulate which books and documents he requires to be produced. This could save the inspector, the person summoned to produce, and the corporation concerned from the embarrassment of having too many irrelevant books and documents produced.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 22 to 32 put and passed.

Clause 33: Second schedule amended—

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

> Page 41, line 21—Insert after the figures "161A" the words "by a holding company in respect to one or more of its subsidiary or related companies".

As I indicated in my second reading speech, this Bill makes it mandatory for a holding company and all of its subsidiaries to have a uniform balancing date; and that is a principle to which, as I indicated, I fully subscribe, because it is in the interests of companies themselves to have a uniform balancing date. But it must be recognised that for some good and sufficient reason circumstances will arise where it is just not practicable, and is well nigh impossible for a company and its subsidiaries to have a uniform balancing date. The Bill recognises that and makes provision that in such case the holding company may apply to the Registrar of Companies for a permit to balance its subsidiaries on a date other than its own balancing date.

The Hon. A. F. Griffith: Its subsidiaries, or any one of them.

The Hon. H. K. WATSON: Yes; its subsidiaries or any one of them, or, as the Minister explained in reply, what are known as related companies—that is, a wholly-owned subsidiary of a wholly-owned subsidiary. The Bill provides that a holding company may in such circumstances apply to the registrar for a permit to carry on as usual; and that, in my opinion, is also a good provision, subject to this one snag in clause 33 which provides that on the making of any such application it shall pay a fee of £10. A fee of £10 is of itself a pretty stiff fee if it were in respect of an application for all the subsidiaries but if, as is implicit in the clause as it stands at the moment, it is to be £10 a nob for every subsidiary, we could find a really extortionate fee being demanded.

I happen to be chairman of a company which has 13 subsidiaries. That company will not be affected by this clause, because it can quite well balance on a uniform date. The whole 14 companies will balance on the same date.

The Hon. A. F. Griffith: In which State does this holding company exist?

The Hon. H. K. WATSON: In Western Australia. On the other hand I can visualise numerous companies, whether they be along Scarborough Beach Road or Albany Highway, having subsidiaries which cannot balance on the same date. In that case it would be necessary for the holding company to write a letter to the registrar saying that its 15 subsidiaries cannot balance on the same date and requesting permission to carry on as usual. The reasons could be elaborated, but they would be pretty clearcut in any case. A fee of £10 for a group application is adequate.

It would be unwise and unjust because an application is being made for 15 subsidiaries to charge a fee of £10 in respect of each subsidiary. So long as the one application is made, whether it is made for one subsidiary or 10, the fee should be a single £10.

The Hon. A. F. GRIFFITH: When the honourable Mr. Watson was explaining his reasons he referred to a company with 15 subsidiaries. That is quite a large number for any holding company to have.

The Hon. H. K. Watson: It would still be £50 for five. That is still excessive.

The Hon. A. F. GRIFFITH: I know one exaggerates rather than under-estimates when one wishes to emphasise something. The fact remains that it does not necessarily mean that the whole of the five or 15 companies would in fact want to be excused from a common balancing date. As I said, the fee is payable by the holding company in the State of the Commonwealth in which it is incorporated. The Standing Committee of the Attorneys-General fixed this fee, and the Parliaments of South Australia, Victoria,

New South Wales, and Queensland have each provided for a fee of £10. So only two States; namely, Western Australia and Tasmania remain to fix a fee. There seems little doubt that Tasmania will fix the same fee as the other States.

Quite apart from the fact that we will be stepping out of uniformity, it is not regarded as unreasonable. In its discussions the Standing Committee expressed the view that if extremely onerous conditions were imposed by the taxation authorities in a particular case the circumstances should justify the granting of an application made under the proposed new section 161. I do not for a moment think this is going to be absolute; on the contrary it will be the other way.

There is a requirement in clause 17 that the balancing date shall be on the same date; and it is thought that most companies will fall into line and accept a common balancing date, but where they do not, and where they put forward a reasonable excuse in the case of either one or a number of them, then it is regarded as not unreasonable for a fee of £10 to be imposed, because in that way we could prevent a company from seeking to change the date merely for the sake of doing so. This places some obligation on them, and will prevent them from doing this lightly.

I hope the Committee will not agree to the amendment. The majority of the States have accepted this fee, and Tasmania is likely to do so. In the interests of uniformity we should also do so.

The Hon. R. C. MATTISKE: I agree with the amendment. I cannot see the Minister's argument at all. He says it is a reasonable fee to prevent companies from making a light request to the registrar for a change in the balancing date. These things are not done lightly. There is always good reason for a change to be requested; and even if the application were made in a lighthearted manner it certainly would not be treated in such a way by the registrar, who has the power to refuse the request. A fee of £10 for each subsidiary, or related company is more than what should be charged. The Minister also said that the holding company may make an application on behalf of one or more subsidiaries or related companies.

The Hon. A. F. Griffith: I did not. I said the fees would be payable by the holding company.

The Hon. R. C. MATTISKE: I understood the Minister to say the application may be made on behalf of only one of them, or on behalf of a number of them. Whatever the case, a fee of £10 on each application would be payable. That cannot be disputed. I feel that one application should attract a fee of £10, even though it may be made on behalf of a number of subsidiaries.

The Hon. A. F. GRIFFITH: The Committee should bear in mind that the success of this legislation over a period of three years has been based entirely on the advantages of uniformity. Seeing that South Australia, Victoria, New South Wales and Queensland have accepted this figure, surely it is reasonable to expect Western Australia to fall into line.

The Hon. H. K. WATSON: Because the members of the Parliaments of four other States have done this is no reason why we should agree to the Minister's proposition.

The Hon. A. F. Griffith: That is purely presumption.

The Hon. H. K. WATSON: If we have any objection to the Bill, surely it is for us to express an opinion—uniformity or no uniformity.

The Hon. R. C. MATTISKE: On the question of uniformity, I recall that when a similar measure was before this Chamber we were asked to accept it *in toto* because of uniformity. Later we learned that the other States did not agree to certain sections of the legislation which related to matters of principle.

The Hon. H. K. Watson: South Australia did not.

The Hon. R. C. MATTISKE: In this case the principle is being agreed to—we agree that there should be a uniform balancing date and application to the registrar. The payment of a fee does not vary the principle contained in the legislation.

The Hon. A. F. GRIFFITH: This Bill contains 35 clauses, 33 of which are in conformity with the uniform Companies Act. The honourable Mr. Watson and the honourable Mr. Mattiske are prepared to accept the basis of uniformity, but when it comes to the same fee that the other States are prepared to impose they feel that Western Australia should not charge so much. They feel that a holding company with five subsidiaries should only pay £10; but the other four States will charge £50 for five subsidiaries.

The Hon. W. F. WILLESEE: I should think in principle it would be beneficial for any company with its subsidiaries to balance on a given day, and a fee could well be used to create an incentive for them to balance on a particular day.

The Hon. A. F. Griffith: It is intended that way.

The Hon. W. F. WILLESEE: It would be preferable to use the fee to ensure that we receive all the returns at one time.

The Hon. A. F. Griffith: In a way it is a bit of a sanction.

The Hon. W. F. WILLESEE: I can appreciate there may be some difficulties, but I wonder how difficult the situation would be; because if they were big subsidiaries

they would have independent accountants and independent accounting facilities. We should not quibble at the fee; it is not really much.

The Hon. H. C. STRICKLAND: I see the fee as a payment in return for the granting of an application.

The Hon. A. F. Griffith: The fee is paid whether the application is granted or not.

The Hon. H. C. STRICKLAND: The application can be refused?

The Hon. A. F. Griffith: Yes.

The Hon. H. C. STRICKLAND: It does not follow that if 10 subsidiaries are each paying £10 it will act as a deterrent. I agree with the honourable Mr. Watson that a fee of £10 should be confined to each application, even though it may be made on behalf of three or 10 subsidiaries of a holding company. If that is the effect of the amendment I will support it. Under the Bill, if a holding company has 10 subsidiaries on behalf of which it made application it would be required to pay £100. That would not be a deterrent to a holding company.

One could make application just for the sake of dodging the uniform balancing date, but I do not think the fee is big enough for a large holding company to do that. However, I feel the fee is too heavy if it is to be applied to an application which might embody three subsidiary companies.

The Hon. A. F. GRIFFITH: In the event of the exaggerated situation of 15 subsidiary companies having a different balancing date from the holding company, the obvious thing is for the holding company to alter the date.

The Hon. H. K. WATSON: The fee is payable simply by the lodging of the application and is also payable whether the application is or is not granted. The Minister said I exaggerated the position. I did nothing of the kind. I spoke from practical experience. I said I happened to be associated with one company which has 13 subsidiaries; and there must be plenty of other companies of a like nature.

The Hon. A. F. Griffith: Would these 13 companies have a like balancing date?

The Hon. H. K. WATSON: Most have.

The Hon. A. F. Griffith: Would it differ from the date of the holding company?

The Hon. H. K. WATSON: Yes.

The Hon. A. F. Griffith: Isn't it logical that the holding company should change the date?

The Hon. H. K. WATSON: No; there are circumstances which make it imperative that a holding company should balance on a certain date. It is the old story of theorising instead of dealing with practical problems. The Minister has given us hypothetical cases and I am endeavouring to show from experience what can happen. This is simply the lodgment of an application for permission which may or may not be granted; and I think £10 is fair enough.

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

Ayes—6

Hon. A. L. Loton	Hon. H. K. Watson
Hon. H. C. Strickland	Hon. F. D. Willmott
Hon. J. M. Thomson	Hon. R. C. Mattiske *(Teller)*

Noes—16

Hon. N. E. Baxter	Hon. R. F. Hutchison
Hon. G. Bennetts	Hon. F. R. H. Lavery
Hon. D. P. Dellar	Hon. L. A. Logan
Hon. J. Dolan	Hon. H. R. Robinson
Hon. A. F. Griffith	Hon. J. D. Teahan
Hon. E. M. Heenan	Hon. S. T. J. Thompson
Hon. J. Heitman	Hon. F. J. S. Wise
Hon. J. G. Hislop	Hon. R. Thompson *(Teller)*

Pairs

Aye	No
Hon. A. R. Jones	Hon. W. F. Willesee
Hon. C. R. Abbey	Hon. J. J. Garrigan
Hon. J. Murray	Hon. R. H. C. Stubbs

Majority against—10.

Amendment thus negatived.

Clause put and passed.

Clauses 34 and 35 put and passed.

Title put and passed.

Bill reported with amendments.

DEBT COLLECTORS LICENSING BILL

Second Reading

Debate resumed, from the 10th November, on the following motion by The Hon. A. F. Griffith (Minister for Justice):—

That the Bill be now read a second time.

THE HON. H. K. WATSON (Metropolitan) [8.9 p.m.]: This is a Bill to license debt collectors and to provide that they shall not carry on business without a license; that in order to carry on business they shall execute a bond; that they may charge their client such a fee as may be agreed upon; that regulations may be prescribed covering the fee which they may charge a debtor, such fee not to exceed 2½ per cent. of the amount collected, and that there shall be a minimum charge which, I understand, is contemplated as being 5s., or thereabouts.

With your indulgence, Mr. President, I will deal with the Bill in clauses rather than generally and thereby save the time of the House and Committee, and facilitate consideration by the Minister of some of the points I suggest are worth attention.

Clause 5 provides that anyone who breaches that clause is liable to a penalty. In the case of a corporation the penalty is £200, and in the case of a natural person the penalty is £100 or six months imprisonment. I would suggest that the penalty for the offence should be uniform

regardless of whether it is committed by a corporation or by an individual—that is, the pecuniary amount of the penalty.

In clause 13, at the top of page 10, the Bill contains what I submit is a minor defect, inasmuch as it does suggest that a written appointment is required in respect of each single service. That may be quite all right where a casual client with one account goes to a debt collector and asks that debt collector to collect the amount. Under paragraph (b) of clause 13 he is required to appoint that debt collector in writing. However, if a regular client of the debt collector is in the habit of sending 10, 20, 30, 40, or 50 accounts to the debt collector—I hope I am not exaggerating—it is unreasonable to assume or expect he shall give a separate authority in respect of each one of those accounts. It is even unreasonable if he sends a bundle down this week and a bundle next week. It should not be necessary each time to give a separate authority.

The Hon. A. F. Griffith: It would be a continuation of service.

The Hon. H. K. WATSON: It should be made clear whether this is a particular authority or a general authority. If I have time I will place an amendment on the notice paper to make that clear.

Clause 15, at the foot of page 11, provides that the debt collector shall maintain a trust account; that he shall pay all the collections on behalf of the client into that trust account; and that he shall not withdraw from that trust account any payment or any amount except his fee for collecting the debt and any moneys that may be owing to him—that is the debt collector—by the creditor on whose behalf he has carried out the particular service.

That is quite all right down to there; but then the words in the remaining four lines appear to be extremely confusing and I certainly cannot understand them. They read—

> which he is, by written direction, signed and given to him by a person entitled to give the direction, expressly directed to withdraw.

There again, if a debt collector has collected an account and clipped off his commission, I would say he is entitled to clip off his commission without writing to the creditor asking him whether he can do so: because the creditor has already agreed, when he made the appointment, to pay him commission upon collection.

Then we find that some debt collecting companies have an arrangement with their clients for the one account. They credit to the account all the collections, and they debit against that account the cost of the annual subscription to the association or the company and the cost of subscribing to their weekly publications. So I would request the Minister to have a look at the words in those four lines with a view to seeing if they could not conveniently be excised from the Bill.

Clause 19 provides that the Minister may, in cases where he is of opinion that it is desirable to do so, appoint an auditor for the protection of the public or the creditor of a licensee. I would suggest that in the same way as the appointment of an auditor of a trust account of a land agent is mandatory, it should be mandatory here. It should not be discretionary; it should apply automatically to a trust account.

We then come to clause 20 which provides for a bond. It provides for a fidelity bond in the case of a corporation, whether in partnership or otherwise, of £5,000, or such other sum as may be prescribed.

The Hon. A. L. Loton: Is that up or down?

The Hon. H. K. WATSON: The honourable Mr. Loton raised that question last night. I would suggest that as the clause reads it means up or down. Instead of the clause reading "such other sum as may be prescribed" I suggest it should read "or such greater sum as may be prescribed."

The Hon. A. F. Griffith: Having set a minimum in the original legislation, do you really think it should be reduced rather than increased?

The Hon. H. K. WATSON: We do not know whether this is a minimum or maximum.

The Hon. A. F. Griffith: It is obviously a minimum.

The Hon. H. K. WATSON: It is not apparent.

The Hon. A. F. Griffith: It is not apparent, but it is intended to be a minimum.

The Hon. H. K. WATSON: We should clarify it one way or the other; it should be made clear because people have to work under these Acts, and it is the duty of Parliament to make an Act as clear as it can be and not as obscure as it can be.

It is not quite clear to me why a corporation should provide a bond of £5,000 and a natural person a bond of £3,000. I could understand a discrimination on a turnover basis; namely, a bond of £3,000 for someone doing a turnover of £3,000 a month; a bond of £5,000 for someone doing a turnover of £5,000 a month; or a bond of £10,000 for someone doing a turnover of £10,000 a month. That would appear to be a rational distinction; but to vary the amount having regard only for whether a business is owned by a company or an individual is not very rational.

The clause contemplates a fidelity bond from an insurance company. It could well be that a company would desire to put up the amount by way of a fixed deposit or by way of lodging Commonwealth bonds

with the Treasury. If a company so desired, it should be given an opportunity of doing this.

The Hon. A. F. Griffith: A company or a corporation?

The Hon. H. K. WATSON: Yes, a company or a corporation; or an individual for that matter; or a partnership. It should be able to put up £5,000 or £10,000 in bonds, because a fidelity bond is not particularly easy to come by. If insurance companies have clients for whom they do most of the business—fire, workers' compensation, and motorcar—and those clients come along with a fidelity risk, the insurance companies might look down their noses, but they take it as being part of the general scheme. But a man simply wanting a fidelity bond finds it difficult to obtain one from an insurance company.

The Hon. A. F. Griffith: He may find it difficult if he is not a good risk.

The Hon. H. K. WATSON: Yes.

The Hon. A. F. Griffith: If he is not a good risk, we don't want him in the business.

The Hon. H. K. WATSON: I grant the Minister that; and that is a way to keep him out. On the other hand, there are some businesses which are good risks and which are quite prepared to lodge £5,000 or £10,000 with the Treasury on their own account rather than go to the trouble and inconvenience of taking out an insurance policy. This, of itself, is evidence of their being a good risk and evidence of their general standing.

The Hon. A. F. Griffith: If you look at the top of page 16 you will find that the fidelity bond shall be a bond in the form prescribed.

The Hon. H. K. WATSON: Yes.

The Hon. A. F. Griffith: I think the Minister would have the power to prescribe the form in which a bond would be; and that could include a Commonwealth bond, could it not?

The Hon. H. K. WATSON: There could be a few words added, such as, "from some insurance company approved by the Minister, or in some other manner approved by the Minister." That would cover it.

Clause 21 provides that a fidelity bond may be terminated; but if it is terminated—I am reading now from paragraph (c)—the insurance company shall be liable—

(1) in respect of all penalties, damages and costs adjudged against the licensee to whom the bond relates in respect of any act, done or omitted before the date of the determination of the bond; and

(2) for the due accounting after the specified date by the licensee to the persons entitled thereto, of all trust money received by the licensee before the specified date.

It may be implicit that the liability thereby specified is limited to the amount of the bond, but the clause does not say so, and I think it should be stated. I suggest the Minister have a look at the provisions in connection with subclauses (3) and (4) on page 17, because various questions arise. The clause does not make it clear whether earlier claims would have priority over later claims if the deficiencies exceeded the value of the bond, or whether the moneys would be distributed on a *pro rata* basis.

It would not do any harm if the subclause (3) were left out and the ordinary principles were applied. When we have an approved fund of £5,000 and creditors of £50,000 claiming on it, there are two approaches. There is the approach which was laid down in 1816 and known as the rule in Clayton's case, where the last one in is the first one to come out. The other approach is on the *pro rata* basis. Is it going to be first come first served: the first man who issues a writ to the exclusion of the others; or is it to be on a *pro rata*, or some other, basis?

The Hon. A. F. Griffith: I think the ordinary course of law would follow then.

The Hon. H. K. WATSON: Whilst I think that the ordinary course of law would follow, I think that—to some extent, at any rate; but to an extent which is not clear—subclauses (3) and (4) override the ordinary course of law. I would like the Minister to clarify that point for me. Apart from those comments, I have no further contribution to make to the Bill.

THE HON. F. R. H. LAVERY (West) [8.29 p.m.]: I preface my remarks by saying that I believe this Bill has been introduced many years after it should have been. However, I commend the Minister, even at this late hour, for bringing it forward. I have some comments to make on the measure that are different from those which have already been made.

This Bill is a good type of machinery Bill and is mainly for creditors. It contains no restrictive clauses and it guards against bold, brash, and bullying tactics, half-truths, and innuendoes in connection with the actions of an agency in inducing debtors to pay, or in regard to standing over a person who owes some part of a debt, or admits to owing a debt, which is not really enforceable at law; especially a husband or wife or parents or minors.

Having made those opening remarks, I want to say the Bill does bear some analysing in so far as the drafting of it is concerned. The Minister, when making his second reading speech, advised

us that this was new legislation and that some minor amendments may be necessary to be made to it. I suggest, however, that the Minister should take cognisance of the speeches made by the two previous speakers. Therefore I do not intend to criticise the Bill very much.

I am pleased, however, with clause 6 which provides that a licensee shall not assume additional powers beyond those now given to him, because I think it is necessary in legislation of this type, when we seek to license people who already have a certain amount of authority under the law, that we should ensure that they do not assume unto themselves some authority that their license does not grant them.

In this industry—and it is an industry now; it is not like the organisation that the Trade Protection Association had where, perhaps, 100 accounts were dealt with in a month, because a tremendous number of accounts are dealt with now throughout the State—we have debt collecting agencies and companies being established so that the Minister has found it necessary to produce this Bill.

I will pass some comment on the measure in a general way after I have made some further remarks. Clause 8 (5) on page 6 provides—

> The officer in charge referred to in subsection (4) of this section, may object to the granting of the application and if he proposes to so object he shall include in his report a statement setting out that he so proposes and the grounds for his objection.

I think that is a very laudable provision; and it finds a place in the Registration of Land Agents Act, because when a person applies to be registered as a land agent and objection is made to his application, he is given seven days' notice of the objection; and I know of a case that has occurred in the last fortnight. This is a very good provision to have in the Bill because a person may as a result of his previous association with someone of ill-repute not be considered for a license. Such a case occurred a few weeks ago when a man applied to be registered as a land agent, and there was an objection because at one time he was working in association with a man named Gill, who is well known in Western Australia. The applicant for registration has been in the State for 17 or 18 months and he is precluded from seeking registration because of his association with Gill.

The subclause to which I have referred is a good one inasmuch as an applicant will have an opportunity to bring counter evidence against any objections. Also, an appeal lies against an order of a local court when it refuses to grant an application. This is another provision which gives an applicant a fair and reasonable opportunity to prove that he is, in fact, a reputable person.

I turn now to page 11—I think the honourable Mr. Watson referred to this provision—clause 15 (1) (b) which states—

> (b) shall not withdraw, or permit the withdrawal of the whole or any part of the amount except in payment of—
>
> (i) the expenses, commission, fees and other charges of or incidental to the service or transaction; and
>
> (ii) any moneys owing to the debt collector by the person on whose behalf the service or transaction was carried out,
>
> which he is, by written direction signed and given to him by a person entitled to give the direction, expressly directed to withdraw.

I agree with the honourable Mr. Watson that the Minister should—and I know he will—give consideration to this question and provide an answer when he replies, because I believe it is important.

I refer also to clause 16 on page 13 dealing with the duties of a bank manager. I am just wondering whether the machinery in this clause does not go a little too deeply into a firm's private affairs. I understand the clause provides that not only shall the firm's affairs be investigated, but the private accounts of natural individuals, too. I am wondering whether that may not be going a little too far.

Having said that, and having agreed with both the honourable Mr. Watson and the honourable Mr. Loton, I turn now to clause 20 (2) (a) on page 16 as follows:—

> (a) in the case of a corporation whether in partnership or otherwise, of five thousand pounds, or such other sum as may be prescribed;

The Bill should provide definitely that it is an amount of £5,000, maximum, or some other figure. The amount should not be left to the whim of some individual. A person should not be able to say that a particular firm shall pay £5,000 for a fidelity bond and some other, smaller, firm shall pay £2,000.

The Hon. A. F. Griffith: This will not be decided at the whim of some person; it will be in the hands of the responsible Minister.

The Hon. F. R. H. LAVERY: I agree with the honourable Mr. Watson and the honourable Mr. Loton that the Bill does not say so. I think the words proposed by Mr. Watson would tidy up the position. I come now to clause 26 (d) on page 18 which provides—

> (d) prescribing the charges that a debt collector is entitled to charge, recover or receive from any debtor

of a creditor for or in connection with the collection of a debt from the debtor on behalf of the creditor where the debt is paid by instalments and prescribing that the maximum amount thereof shall not exceed two and one-half per centum of the amount of the debt and providing for a minimum charge;

The amount of 2½ per cent. is quite reasonable. I do not think there is anything to quibble about in that, but I make it clear that in my experience some of the established debt collectors have varied the percentage.

I now wish to say that I am concerned that the Bill does not do completely what the Minister requires. I feel that first of all it will provide for the licensing of a group of people to carry on a certain type of business. These people will collect moneys on behalf of creditors. I am not objecting to that. Every debtor is entitled to pay what he owes. If he cannot pay immediately, then he can pay later. There is, however, no provision in the Bill to ensure that the debtor will receive what are the ordinary ethical decencies of trading.

I intend to give a couple of instances to show that some debt collectors are using threats and inuendoes to frighten the heck out of people—in fact, they almost frightened one person into committing suicide. But, I repeat: Any person who owes money is entitled to pay it.

I am wondering whether the licensing of the agent is binding on his servants and agents. The T.P.A. employs a firm of lawyers, Jahn and Cearns, who do no other work except act for the T.P.A. Mr. Jahn and Mr. Cearns are not the sort of people who go out and issue claims, and summonses, and so on. Who does go out; and who is responsible? There is nothing in the Bill that would give that firm of solicitors—

The Hon. A. F. Griffith: The Bill does not deal with solicitors.

The Hon. F. R. H. LAVERY: I am pointing out what actually happens in regard to the collection of money from individual debtors. Those people on occasions do not receive gracious treatment from the persons who collect the money. The T.P.A. employs this firm of solicitors to do its work. There is nothing wrong with that. I think there should be more of it rather than that debt collecting should be carried out by people whose actions on occasions are quite shady. I ask again: Can a licensee employ whom he wishes without the approval of the police, or without the approval of the proper legal authority?

Some people employed by debt-collecting agencies treat debtors as though they were some disease, or scum that has to be kicked and walked on. Would it not be better if we had some complementary legislation amending the Local Courts Act to provide that processes shall be served by solicitors, clerks, the plaintiff himself, the bailiff, or the sheriff's officer, and not by people who do not treat debtors with ethical respect?

The bailiff treats debtors ethically. He will go to a person's home and say, "I have a summons here in respect of debt. I have to collect the amount of, say, £17 16s." The person concerned might get a little excited and say, "I do not owe this money; it has nothing to do with me," and there is a bit of a dispute. When the bailiff finds he cannot quieten the person down, he will go away.

He will return later and say, "When I was here a while ago I think you misunderstood me, but if you are prepared to listen further I think I can assist you. This is an account in the name of your son for which you are responsible, up to a point. I suggest to you that you sign this summons signifying that you will pay so much a week, or, if you cannot do that, advise that you cannot pay anything for a while, but that you acknowledge the summons and are prepared to let the court deal with the case. This will allow you some 10 or 20 days in which to ascertain if you can find the funds."

That is the sort of approach made by a solicitor's clerk, a sheriff's clerk, or a bailiff's clerk when they call upon any person in regard to the payment of a debt. However, the same cannot be said about the approach of an agent of a debt collector. Some of these agents use threats against such people so that, especially if they are women, they are almost in tears.

Their approach is along these lines: "Now, Mrs. so-and-so, it is no use you arguing with me; I can make this difficult for you. Anyway, I cannot waste time talking to you now. You accept this summons and I will call back in a couple of days and see if I can help you with it." By this means they deliver the summons and they wipe their hands of it. They do not return until after the expiration of the 10 days, by which time a judgment summons has been issued against the person owing the money.

The point I am making is that the Bill is a good one in regard to providing for the registration of debt collectors, but I would like to hear the Minister say that instances such as I have quoted will not happen, because I can assure him that they do happen. I wish to recite the circumstances of another case which is known to me; and I know the file containing the papers on it lies on the table of the Minister for Police and also on the table of the Minister for Justice. I know the people involved in this case. I am not going to deny that this person owed money on a vehicle which was repossessed, but the vehicle was security to the bailiff.

People came to repossess the vehicle but were told by the person who was purchasing it, "I cannot let you take the vehicle because it is under the control of the bailiff." They said, "That has nothing to do with us. You come with me." Thereupon they took this person to the Rockingham police station and obtained advice from the officer in charge, following which they took possession of the vehicle.

The Hon. A. F. Griffith: Was this vehicle the subject of a hire-purchase agreement?

The Hon. F. R. H. LAVERY: Yes.

The Hon. A. F. Griffith: It would not come within the provisions of this Bill.

The Hon. F. R. H. LAVERY: I will point out to the Minister that it has some relevance, because this is what happened. The case involved a Mr. and Mrs. Morley of Medina, and later of Rockingham. To my knowledge the agent of a debt collector stood over these people and then, as I have stated, called on the police at the Rockingham police station for advice. He then produced a license in the name of some inquiry agency, which Mrs. Morley did not understand, and he took the vehicle despite the fact that it was under the seizure of the court. The Minister knows full well that it is a very serious act when one takes possession of goods which are under seizure of the court.

Mrs. Morley, in view of what happened, attempted to take her life. She was not prepared to face up to a similar occurrence. Her husband found her after she had made an attempt on her life and called a doctor to her. She has now left her home and is living in the country. She has two children and she is not prepared to return to Rockingham to face up to a similar occurrence, so severe was the threatening attitude of the person who approached her to take possession of this vehicle, and who, in fact, used threats against her.

I want to refer to two other cases, because I want to state my case fully whilst I am on my feet. I want the Minister to know, through you, Mr. President, that whilst I support the Bill I want someone in authority to ensure that agents employed by debt collectors will not, in the future, be permitted to take this sort of action against people who owe money.

One of the cases I now wish to elaborate on concerned a lady who lived in Baker's Estate, Hamilton Hill. She came up against a problem which many of us would not care to face. She has four children, two of whom developed an incurable disease. One of the well-known Fremantle doctors advised this lady that the only way she could give her children relief was to install an air-conditioner in her home, and she followed his advice. However, one little boy aged eight died in 1961, and the other boy, aged seven, died in 1963.

This is the third summer this woman has had the air-conditioner installed in her home, and she has been paying £5 a month regularly to the company from whom she bought the machine. She missed one payment and the employees of the company came out and broke into her home by entering through a bedroom window. They passed through her bedroom into the lounge, and then disconnected the electric motor for the air-conditioner at a point outside the house. They also cut the connecting wires to the machine and removed it from the house.

When this lady returned to her home about 4 p.m., the first thing she saw was a gaping hole in the wall and, when she entered the house she found, because it had been raining heavily, that water had got into the room and damaged a good piece of furniture. Within half an hour she was interviewing the representatives of this firm, and they said to her, "You had better not say too much about this" but the lady interviewed a solicitor in Fremantle who has been unable to do much about the case as yet.

I took the case to the bailiff in Fremantle seeking advice as to what could be done. Regardless of the fact that the information he gave me was correct, the representatives of this company had no legal right to break into the house. Even a bailiff will not break in the first time; although he has that right the second time he calls. I ask the Minister: Is not the answer to tighten up the law by a Bill of this kind against companies such as the one I have mentioned?

Debt collectors should be registered to ensure that the persons they employ carry out the law in a proper fashion. I have particulars of another case here. It concerns a lady who owed a company £6 1s. 6d. She is paying 5s. a week off this debt. She rang the company and said, "My husband is in hospital on workers' compensation with a knee injury. Can I pay 10s. a fortnight instead of 5s. a week?"

She did that on Monday of last week, and the firm said it would be quite all right, but on Friday of last week representatives of the firm came to her home and wanted to deliver a judgment summons to her husband. She said, "You cannot do that because he is in hospital." They asked her which hospital her husband was in, but she refused to tell them. She interviewed representatives of the company at its head office on Monday last and they said, "We are issuing a judgment summons to make sure that you do pay, even though you are paying so much a week."

This lady came to me and I rang the firm and it more or less told me to pull my shirt in and to watch what I was doing until I told them who I was, and then they soon crawled down. Why should a woman

be issued with a summons when she is prepared to pay 10s. fortnightly instead of 5s. a week? I do not want to delay the passage of the Bill unnecessarily, but I cannot let legislation of this kind be placed on our Statute book without acquainting the House of what actually happens.

I can cite several cases of repossession of goods under hire purchase, and when either the bailiff in Fremantle or in Perth has approached the people concerned he has said, "I will give you 24 hours to come to some arrangement with the firm from whom you bought the goods." Is not that a better way to try to help the people who are in distress, and also to help the creditors concerned?

There are some very shady firms who employ objectionable men to carry out this work. Whilst I have made these statements in the House I intend to make further statements against other companies outside the House when action is taken against them. I support the Bill.

THE HON. R. THOMPSON (West) [8.56 p.m.]: I, too, support the Bill. I realise it is a starting point and that, possibly, it will require amending from time to time. I have knowledge of all the cases that have been quoted by Mr. Lavery and I know he is telling the truth. In future we will receive many similar complaints against the action of agents of debt collectors even though they are registered. At present, most of the firms engaged in this business constitute a rabble, and those they employ have acted like a rabble. They have not shown any ethics in any shape or form when dealing with people who owe money.

The Hon. A. F. Griffith: I think many are ethical.

The Hon. R. THOMPSON: But many are not.

The Hon. A. F. Griffith: That could be so.

The Hon. R. THOMPSON: Unfortunately, some of the older and well-established firms employ men who are not ethical and they bring disrepute upon their good names. That has often happened.

The Hon. A. F. Griffith: It was ever thus; that is why we have penal laws.

The Hon. R. THOMPSON: Yes. After studying the Bill one can understand how a person will be licensed and the circumstances under which his license can be cancelled; how money will be kept in trust and paid; how records will be kept; and so on. However, the Bill does not refer to any ethical standard which a debt collector will observe when he is operating.

I imagine that regulations which will be promulgated in the future will possibly govern the actions of some of these people. Debt collectors generally should take into consideration the well-being of a family. The activities of finance companies and firms which sell goods on hire purchase should be restricted. In my opinion, this question will not be solved merely by legislating against debt collectors. Often we seen enticing advertisements with the words, "Ring this number and you will save 50 per cent. of the usual purchase price." By such advertisements, and other forms of high-pressure selling, people are enticed into purchasing something which they cannot always afford. They then find themselves in trouble, and before long debt collectors come around.

In the last few months I have become aware of cases where firms sold motor vehicles to youths under the age of 21 years. They did not ask for the age of the purchasers; they just sold the vehicles on time payment. Obviously some of those youths could not keep up their payments, and the debt collectors came around. They actually stood over the parents of the youths, and told the parents that the debts were their responsibility, because the purchasers were under 21 years of age.

The responsibility should be placed, in the first instance, on the seller of the goods; and, in the second, on the hire-purchase companies which advance the money. If an intending purchaser of goods has a large family and heavy financial commitments his ability to purchase goods on hire purchase should be regulated. In respect of the sale of smaller articles, the firms do not even ask for particulars of the purchaser's financial commitments and family responsibilities.

Anyone can buy a vacuum cleaner, a washing machine, a secondhand motor-car, and furniture, etc., without being asked about his existing commitments.

The Hon. G. C. MacKinnon: If the firms asked for the details the intending purchaser would go to another shop, and thereby a sale would be lost.

The Hon. R. THOMPSON: I know it is bad for business.

The PRESIDENT (The Hon. L. C. Diver): Will the honourable member address the Chair?

The Hon. R. THOMPSON: If the firms were to make an ethical approach to these matters there would not be so much need for debt collectors. The responsibility starts with the party supplying the goods, then it goes to the party supplying the money, and lastly to the person acquiring the goods on hire purchase.

The Hon. A. F. Griffith: Does it not start with the desire of the person to purchase the goods?

The Hon. R. THOMPSON: I could enlighten the House for a couple of hours on complaints I have received, to show that people have been incited to buy things under hire purchase. When another Bill comes before the House I shall possibly enlighten honourable members for one hour on one incident alone. I support the Bill.

THE HON. R. F. HUTCHISON (Suburban) [9.3 p.m.]: I shall support the second reading of the Bill, because one has to support it to enable legislation to be placed on the Statute book to bring about some semblance of order in these matters. It would be wearisome for me to reiterate what other honourable members have already said.

Previously I did bring up the case of a very worthy couple who were put through all kinds of misery by debt collectors. The husband was a contractor working in the north; and when people go to the outback to work they are generally good workers. Trouble came to this couple, and they were harshly treated by debt collectors.

I can vouch for what the honourable Mr. Lavery and the honourable Mr. Ron Thompson have said. Some firms sell goods on hire purchase to people who subsequently, through bad luck, experience difficulty in meeting the payments. I am talking of genuine cases where through bad luck they are unable to meet their payments.

I did outline the case of a woman who had been left with five children. For an outstanding account a firm of debt collectors put the bailiff in, and her washing machine, which she had struggled hard to buy for £86, was seized. It was sold for £12. But that was not sufficient to meet the debt, because the debt was £21. The bailiff came back and seized her frying pan. This woman had no wood so she had no means by which to cook meals for herself and her children. Her mother came to the rescue and got back the frying pan for £8, but she was charged 5s. storage fee for the keeping of it overnight.

There are people who genuinely get into financial difficulties. The debt collector went to the home of the woman, to whom I have just referred, at 4.45 o'clock in the morning and woke her from sleep. She thought that something had happened to her husband, and for a couple of days afterwards she was ill through shock. This sort of thing should not be allowed in our community.

Although this Bill is the first step to bring about the registration of debt collectors, I can see no protection being accorded to people against the things which go on now, and which should not be allowed to exist. What goes on is beyond all human understanding and reasonableness.

It is amazing what amount of abuse people have to take from debt collectors. I have heard them and I know what I am talking about. They are bullies. Some provision should be included in the Bill to protect people from the bad behaviour of debt collectors. They should be compelled to behave in a proper manner. In certain circumstances debt collectors have the law on their side, but they should not be allowed to do some of the things that they now do. I can understand that some people who are engaged in business or professions, such as doctors, not being aware of the circumstances when debt collectors are called in to collect outstanding accounts.

In one case I explained to a doctor what had been done by a debt collector, and he asked me why the debtor had not told him of the circumstances before. I told the doctor if he put an outstanding account which was almost a current account, into the hands of a debt collector, he would not be able to do much about the matter, but the debt collector would start pressing for payment. Provision should be made to protect people to enable them to meet their payments within a reasonable time, but the method now adopted by some debt collectors is reprehensible.

Although the Bill contains a provision to bring about registration of debt collectors, it does not provide that they shall act reasonably and treat the debtors like human beings. They should not be permitted to treat those people in the way they now do. It may be said that this has nothing to do with any of the clauses in the Bill, but I am referring to it because much time has already been spent on the provisions in the various clauses. I can verify what the previous two speakers have said, and I pledge on my honour that what they have said is true. There were worse instances than the ones quoted, and they occurred in my constituency. Those people should be given a month or two to meet the payments and should be treated reasonably.

Debt collectors are merciless, even in the case of sickness. In one instance a woman had a humidcrib baby, and the medical and hospital costs amounted to £142, but even so the bailiffs were put in to seize her goods.

The Government should frame some addition to the legislation which is contained in the Bill, so that protection will be given to decent people who through misfortune find themselves in financial difficulties. The debt collectors should not be permitted to make money, to the detriment of unfortunate people.

In these days the people are induced to buy goods on time payment. We often hear of our affluent society, but most of this is froth on top. People can be made to suffer when they are induced to buy goods which they cannot afford, and some

of them are suffering from it. I became aware of one incident the other day, in which a woman was left with two beds and one table in her house. The Minister should do something to protect people from unscrupulous debt collectors.

THE HON. E. M. HEENAN (North-East) [9.10 p.m.]: I am very glad the Minister has carried out the undertaking which he indicated to the House last year when he said he would introduce a Bill of this nature. A perusal of the measure discloses that, in my view, it is worth-while legislation, and I readily give it my support on the second reading debate. There are a few amendments which could, perhaps, be made, but overall it seems to be a good measure.

Under our present economic set-up, debt collecting has grown into a necessary part of our business system, much in the way that dealing in secondhand cars is now a prominent part of business, whereas a few years ago it was almost non-existent. We found it was necessary to license these businesses and prescribe laws for their conduct.

Similarly debt collecting has grown into a fairly important form of business I know of a number of reputable people who are carrying on this occupation, and I am sure they welcome this Bill, because certain happenings have taken place which brought discredit on what should be a legitimate form of business. I think it is all to the good that people who engage in debt collecting in the future will be licensed. Certain standards are prescribed in the Bill, and that is a good thing for the community, because a lot of the abuses which have been pointed out by honourable members will disappear.

Years ago we had inquiry agents in this State, and anyone could set himself up as one and charge whatever fees he liked. He could get the public in, and he could advertise in any manner. Some scandalous happenings occurred, as a result of which a measure was introduced to bring about the registration of those people. Nowadays people of the disreputable type cannot carry on business as inquiry agents.

Clause 9 of the Bill deals with the grounds on which licenses may be refused. It provides that the court hearing an application for the grant, or the renewal, of a license shall refuse the application unless it is satisfied that the applicant named therein—

(a) is of good fame and character;

(b) is a fit and proper person to be a licensee; and

(c) is of the age of 21 years or more.

The condition that an applicant must be of good fame and character is undoubtedly a commendable one. I think that comes first. We want people in this business who can establish that they are of good fame and character. Having done that they have to go a step further as provided in paragraph (b). A person requiring to enter this business must satisfy the court that he is a fit and proper person to be a licensee.

I find it a bit difficult to interpret exactly what that connotes. First of all he establishes he is of good fame and character and then the next qualification is that he has to be a fit and proper person to be a licensee. I hope that it means he has to have some knowledge, qualifications, and experience for the job he is aspiring to do. I do not know how the magistrates will interpret that, but I hope that is the way it will be interpreted. We could perhaps make it more specific by adding something to it.

It is essential that we do not let anyone have a license merely because he is of good fame and character. He wants something more than that. He wants knowledge, experience, and a certain standard of education and training for the job. Lastly, of course, a person entering this business must be over the age of 21. I ask the Minister to have a look at this matter. I hope the courts will interpret it to mean that these people are to be fitted for the job in the way of training, qualifications, and some experience.

I hope you, Mr. President, will pardon me if I divert a little to quote an analogous situation. At present anyone can apply to be a land agent. About the only qualification that a person has to have is to establish that he is a person of good fame and character. Land agents deal with very involved transactions often involving thousands of pounds. They sell people's homes; they purchase people's homes; and they write out agreements. They should have some knowledge of contract law and the procedure to be adopted at the Titles Office, and so on. Yet we let anyone go into that business without knowing much and without qualifications. Then they advise people and write out agreements and sign people up and get them into dreadful situations.

With regard to the matter raised by the honourable Mr. Lavery concerning process servers, I know what he means, and I know there is a good deal in what he alleges. However, I think it is outside the scope of this Bill. I do not think debt collectors employ these process servers as a matter of course. The solicitor issues the summons and then the bailiff of the court, in the main, serves the summons, although it is possible for any individual to do so.

The Hon. F. R. H. Lavery: Some thousands per year do not reach the bailiffs.

The Hon. E. M. HEENAN: That is so. If someone owes me £20 and will not pay it, and I elect to take out a summons, I pay a fee and the court hands

me a summons. I can serve it or I can get a friend or a clerk to do so. New South Wales, I think it is, has a similar Act, in which this matter is embodied.

The Hon. A. F. Griffith: It is embodied in the same Act in New South Wales.

The Hon. E. M. HEENAN: That Act contains provisions concerning process servers and the like. As time goes on I think we might probably have to do that because we do not want people serving summonses and frightening others and standing over them, as the honourable Mr. Lavery alleges occurs. I am sure the reputable companies will not have any part in that. If people are sick or are unemployed and they have a genuine reason for not being able to pay, the reputable companies, I am sure, will always take such factors into consideration.

The Hon. F. R. H. Lavery: Many companies are already doing that.

The Hon. E. M. HEENAN: Again, I agree that this is outside the scope of this Bill. I think that what the honourable Mr. Ron Thompson said, has a lot of merit. Some wholesalers and retailers have themselves to blame these days. It astonishes me sometimes when I hear how people have obtained credit for £400 or £500 worth of goods when obviously if their circumstances were examined even on the surface it would be found they could not possibly pay the debt.

Some of these secondhand car dealers in the past have been selling cars to bits of boys whom they saddle with obligations which they should realise will only get the boys into trouble and debt. However, that is another matter, and is outside the scope of the measure with which we are dealing.

This Bill has a lot of merit in it and I think if we pass it, it will, in the main, have a good overall effect. It will give the business some standing in our community and will ensure that reputable people and firms engage in it. If it accomplishes that it will do away with a lot of the reprehensible practices which have caused everybody associated with it in recent years to get into some public disfavour.

THE HON. A. F. GRIFFITH (Suburban —Minister for Justice) [9.25 p.m.]: I think to some extent there has been some confused thinking about this legislation. We have travelled in the course of debate over subjects such as goods on hire purchase, goods under a hiring Act, breaches of the Local Courts Act, ethics of people who collect debts, and a lot of other things. We have gone into the question of door-to-door salesmen, at least on the fringe of it, and to a certain extent we have not really been on the subject matter all the time of debt collectors.

The Hon. F. R. H. Lavery: This Bill is only to register debt collectors.

The Hon. A. F. GRIFFITH: That is right. I was hoping the honourable member would—

The Hon. F. R. H. Lavery: I hope you did not think I did not realise that.

The Hon. A. F. GRIFFITH: I was beginning to doubt it. However, the honourable Mr. Heenan reminded us, rightly so, that the presentation of this Bill was as a result of an undertaking I gave last year because the honourable member himself sought to include in the Unauthorised Documents Act something which this House, to say the least, did not believe should be included in it. I therefore undertook at the time to study the question of debt collectors, and, if considered necessary and desirable, to introduce legislation to Parliament to deal with the situation.

The Hon. F. R. H. Lavery: For that you are to be commended. I am not arguing about that.

The Hon. A. F. GRIFFITH: I know the honourable member is not arguing about it. I think we have to start at the beginning in a thing like this. We have to ask why it is necessary to introduce legislation of this type. The necessity arises because someone is required to provide a service in the interests of the creditor and, very frequently, in the interests of the debtor, whereby a debt owing by a debtor to a creditor can be recovered. If we satisfy ourselves that we must do that, we have to get down to the basic principles of what a piece of legislation like this should be.

There is no other legislation in Australia similar to this. New South Wales has a conglomerate of debt collectors and mercantile agents, but has not any legislation totally confined to debt collectors. The situation is somewhat similar in Queensland. To the best of my knowledge this is the first piece of legislation in any State which will confine itself to debt collectors and nothing else.

The fundamentals of the legislation must surely be, in the first instance, to encourage the right sort of people into the business, so we provide legislation for licensing debt collectors. We provide that they must make application to the court, and that they must be of good fame and character, and fit and proper persons to obtain a license. They must also be over the age of 21. Exactly the same principle is contained in the Land Agents Act, contrary to the view expressed that it is not. The Land Agents Act states that if the court is satisfied that the applicant is a fit and proper person to be the holder of a license under the Act, the court may grant it.

The Hon. F. R. H. Lavery: Who said it was not there?

The Hon. A. F. GRIFFITH: One of the speakers said that this was different from the Land Agents Act, because all that was

necessary to become a land agent was for a person to be of good fame and character. But more than that is required.

The Hon. F. R. H. Lavery: The honourable Mr. Heenan said that that was not enough. He said they needed other qualifications.

The Hon. A. F. GRIFFITH: I thought he said in the case of a land agent all that was necessary was that a person must be of good fame and character. However, I remind the House that the same qualification in the Land Agents Act is in this Bill. I know that you, Mr. President, would not want me to deal with land agents, but I would like to say in passing that I was pleased to hear some of the comments made, because if time permits and opportunity is available, I propose to do a little more about land agents in this session of Parliament.

The Hon. F. R. H. Lavery: We will support you.

The Hon. E. M. Heenan: Are you happy with the present Land Agents Act?

The Hon. A. F. GRIFFITH: No, not in some respects. Having provided the machinery for the right sort of people to apply to get into this business, the next thing to do is to lay down, in the best way possible, the machinery under which they will work, and to provide them with some sort of reward for their labours.

The Bill does this in two ways. It provides that where a debt is to be paid by instalments the debt collector will be able to add 2½ per cent. maximum to the debt, with a minimum fee which will be fixed by way of regulation. The fee in mind for this is a minimum of 5s. This principle appears to have been accepted by the House and I think it is not unreasonable to expect the debtor to have added to his debt this small sum of 6d. in the pound; because we must not forget for a moment that it is the obligation of the debtor to pay his creditor.

The Hon. F. R. H. Lavery: Everybody admits that.

The Hon. A. F. GRIFFITH: Everybody knows that.

The Hon. F. R. H. Lavery: And admits it.

The Hon. A. F. GRIFFITH: But many people do not practise it.

The Hon. F. R. H. Lavery: We in this Chamber know different.

The Hon. A. F. GRIFFITH: Many people do not practise it. I make that statement having in mind, of course, the difficulties and hardships suffered by some people to the extent that they find it difficult to pay their debts.

When we have got thus far we say that in order to safeguard the money that these licensed people will have in their possession we will provide that in the first case they shall have a fidelity bond to protect operations; we say that they shall keep trust accounts; and we say that the money in their trust accounts shall be paid out within certain times unless there is an arrangement between the creditor and the debt collector to some other effect. We say that we will be able to bring down regulations to regulate the practices under this legislation.

However, we do not say, nor do I know how it is possible to say, that we can legislate for the behaviour and practice of people who use the legal rights they have under the Local Courts Act. There are penalties for breaches.

The Hon. F. R. H. Lavery: You could make the regulations more stringent.

The Hon. A. F. GRIFFITH: No, I could not. It would not be possible to bring in a regulation to that effect. There are times perhaps, when I would like to be able to say that the honourable Mr. Lavery will be better behaved; and I am sure he may often feel disposed to say that about me. But that would be very difficult to regulate for.

However, joking aside, the ethics of the people who are employed in this type of work are covered to some extent by the phraseology of the Bill—that the magistrate is satisfied that he is a fit and proper person to be a licensee; and that the magistrate shall be provided with some information to the effect that he is in fact a fit and proper person, or is not a fit and proper person. If he is not a fit and proper person it could be expected that he would not be granted a license.

The Hon. N. E. Baxter: Some investigation will be made before he is licensed.

The Hon. A. F. GRIFFITH: Yes, of course.

The Hon. E. M. Heenan: That phrase "A person of good fame and character"—

The Hon. A. F. GRIFFITH: Yes, and that is in the Land Agents Act.

The Hon. E. M. Heenan: How do you interpret, "A fit and proper person"?

The Hon. A. F. GRIFFITH: I would interpret it in this manner: I would say, first of all, "This man appears to be of good fame and character because he is well recommended by some referees." I then might be able to decide for myself because, as a magistrate, I might have some information that his referees might not have and I might decide that, in fact, he is not a fit and proper person.

The Hon. E. M. Heenan: No. How do you prove, firstly, that he is of good character?

The Hon. A. F. GRIFFITH: He has references that he is of good character.

The Hon. E. M. Heenan: It says here, "establishes". It does not mention referees. Unless the court is satisfied that he is

of good fame and character the license is not granted. It has to be satisfied.

The Hon. A. F. GRIFFITH: The court has to satisfy itself in three respects: Firstly, that he is of good fame and character.

The Hon. E. M. Heenan: The court becomes satisfied with (a).

The Hon. A. F. GRIFFITH: It has to be satisfied in three respects.

The Hon. E. M. Heenan: First of all it is satisfied with (a). What does (b) mean?

The Hon. A. F. GRIFFITH: If it is not satisfied with (a), and in its opinon he is not a fit and proper person, then he need not be licensed.

The Hon. E. M. Heenan: But how would he satisfy the court—

The PRESIDENT (The Hon. L. C. Diver): Order! I wish honourable members would attend to the second reading of the Bill and leave such debate to the Committee stage.

The Hon. A. F. GRIFFITH: I beg your pardon, Mr. President. I shall leave that aspect until we get into Committee. I was about to make a point, in reply to the honourable Mr. Lavery, if I remember rightly, in respect of the behaviour of people who work for debt collectors. The principal is responsible for the behaviour of his employee in the same way as a big firm in the city is responsible for the manner in which its employees carry out their work.

The Hon. F. R. H. Lavery: You know how difficult these people are. Most of them work on commission and they are not ordinary employees.

The Hon. A. F. GRIFFITH: If an employee does not give satisfaction it is a matter for the principal to get somebody else who will give satisfaction. In relation to process, whether it is served by the solicitor who may have this work passed over to him by the debt collector, or whether the solicitor is employed by the creditor directly, or whether the debt collector serves his own process, the basis of serving process and the regulations attached to it are set out in the Local Courts Act and regulations.

There are certain things to which a debtor may apply himself if he finds himself in difficulty; but none of those things is intended to be covered by this Bill because they are already in other legislation. The basic principle behind this Bill is to try to improve the situation; and, in saying that, may I remind the House that at the moment there is no machinery whatever in this regard.

The Hon. F. R. H. Lavery: That is true.

The Hon. A. F. GRIFFITH: I got a group of these people into my office and I talked to them about the Bill and the proposals we had in mind. To a large extent they were satisfied; but it would be wrong of me to say they were completely satisfied, because they were not.

The Trade Protection Association is one of the big organisations in the city and it would be quite satisfied, and has informed me so, to have an audit. As a matter of fact it already has an audit, but I have not included an audit in this Bill because it was felt that this may impose a financial hardship on some debt collectors which they may not be able to stand. However, I have done everything that I could possibly do to protect the situation. There is power in the Bill for the Minister to order an audit and such audit will be paid for by the debt collector.

The Hon. A. L. Loton: By the time the Minister ordered an audit the horse would have bolted.

The Hon. A. F. GRIFFITH: That may be so. The horse might have bolted after the audit one year and before the next audit at the end of that year. But it is important to draw attention to the fact that the Bill provides that the payment out of moneys recovered by a debt collector to the creditor shall, unless otherwise agreed to, be not later than every 45 days. Surely that, in conjunction with the fidelity bond is sufficient protection.

The reason why we have a fidelity bond of £5,000 for a corporation and £3,000 for an individual is easy to explain. It is expected that a corporation's business will be bigger than that of an individual, and as the amount of the fidelity bond sought by the corporation will be bigger it will have to pay more for it. Although the suggestion has been made that the bonds should be equal, irrespective of the size of the business, I think the point is arguable. However, in respect of fidelity bonds, I think it is accepted practice that a man who is able to obtain a fidelity bond from an insurance company is regarded as a reasonable person and one of good fame and character.

The Hon. F. R. H. Lavery: It would certainly be a good reference.

The Hon. A. F. GRIFFITH: A person who is in that position would certainly go a long way towards the first step required. I think I will leave any other matters to the Committee stage. I thank honourable members for their support. I realise that this Bill may have some shortcomings but at least it is a start. It is generally acceptable and I would ask honourable members not to slash it around too much. Let us give it a chance to see what weaknesses it has and, if there are any weaknesses, they can be amended in the future as is done with all legislation.

Question put and passed.

Bill read a second time.

In Committee, etc.

The Chairman of Committees (The Hon. N. E. Baxter) in the Chair: The Hon. A. F. Griffith (Minister for Justice) in charge of the Bill.

Clauses 1 to 4 put and passed.

Clause 5: Licensing of debt collectors—

The Hon. A. L. LOTON: I made some mention of the word "advertise," which is referred to in paragraph (b) of subclause (1), when I spoke to the second reading. In an aside the Minister said that it would be covered by regulation—this was dealing with advertising on vans used in the business of debt collecting. It is most undesirable that a van should display a debt collector's sign when he is engaged in the business of debt collecting. I trust that regulations will be framed accordingly.

The Hon. A. F. GRIFFITH: I have a picture of a van with large letters on the side of the van reading "So and so Debt Collector."

The Hon. F. R. H. Lavery: You see them running around Sydney.

The Hon. A. F. GRIFFITH: We are not going to have them running around Perth. I would regard it as a form of intimidation and it is something I do not like. We would regulate to prevent that sort of thing happening.

The Hon. H. K. WATSON: The penalty prescribed in subclause (2) is £200 in the case of a corporation and, in the case of an individual, it is £100 or six months imprisonment. Later the Bill provides that where a corporation commits an offence its directors are also liable.

The Minister indicated that a corporation could be doing more business than an individual, but that is not so. It is open to the smallest individual to form a £2 company and carry on a business. He is then a corporation or a company. It is a novel suggestion that we should apply £200 if the offence is committed by a company, but only £100 if it is committed by an individual. I move an amendment—

Page 4, line 25—Delete the word "one" and substitute the word "two".

The Hon. A. F. GRIFFITH: The thinking behind this is that the penalty in respect of a corporation should be greater than that in respect of an individual. I agree a person could have a business infinitely bigger than a corporation, but a corporation does suggest two or more people together.

The Hon. R. Thompson: What is a natural person?

The Hon. A. F. GRIFFITH: It is a single person.

The Hon. H. K. Watson: A human being?

The Hon A. F. GRIFFITH: A human being can be an unnatural person! In the case of a limited company the directors would be responsible, but that is different. I do not know what the honourable Mr. Heenan thinks about this, but I ask the Committee to leave it as it is.

Amendment put and negatived.

Clause put and passed.

Clause 6: Licensees not to assume additional powers—

The Hon. F. R. H. LAVERY: I would refer honourable members to subclause (2) which deals with licensees carrying on the business or any of the functions of a debt collector. I consider that a debt collector should be a debt collector only, and that goods should be repossessed by a bailiff.

The Hon. A. F. GRIFFITH: This licenses debt collectors. It does not license people who recover under hire-purchase agreements, or those who recover under hiring agreements. It enables a person to recover a debt that is due and owing. This might arise out of a hire-purchase agreement, but the debt is due and owing.

The Hon. F. R. H. LAVERY: I would draw attention to the Kelvinator about which I spoke earlier. Nicholson's is a reliable company. It was sold by that firm but not repossessed by it. The Kelvinator was repossessed by the debt collector. My point is that it should have been repossessed by the bailiff.

Clause put and passed.

Clause 7: Licenses—

The Hon. R. C. MATTISKE: I am not happy about subclause (3). There is no limit mentioned, and an abnormally large amount could be fixed. In this case there will be no statutory authority set up to administer this Act; it will be done by the court as part of its normal functions. I feel we should place some limitation on the amount of the license fees so that we know where we stand. To test the feeling of the Committee I would like to move an amendment in line 10.

The Hon. A. L. LOTON: I have something to say on a part of the Bill which occurs before line 10 on page 5. I cannot see anything in the Bill dealing with the change of address of a business. The New South Wales Act makes it obligatory on the agent not only to give his address but to give any change of address. A man could make a second application from a completely different address from that from which his first application was made.

The Hon. A. F. GRIFFITH: These are administrative matters which can be dealt with by regulation. The purpose was to keep the Bill as small as possible. If the honourable member would look at paragraph (c) on page 18, and paragraph (g) on page 19 he will see there is sufficient power provided for these things to be done by regulation.

The Hon. A. L. LOTON: I still disagree with the principle of doing things by regulation and not by Act of Parliament. Regulations are made, tabled, and become operative while the House is not in session. They continue so until such time as they are disallowed.

The Hon. R. C. MATTISKE: I move an amendment—

> Page 5, line 11—Insert after the word "prescribed" the words "but not exceeding five pounds."

I realise the Governor makes regulations which come before Parliament and which we have the opportunity to move to disallow. But I think that a definite upper limit should be written into the Bill as to what should be charged for licenses. I think an upper limit of £5 is ample. If the Committee in its wisdom thinks it should be £10 I will agree to that, because we would then have something definite on which the court can act.

The Hon. A. F. GRIFFITH: The honourable member has destroyed himself by his own words. Firstly he says we should make it not more than £5, and then he adds that if the Committee cares to make it £10 he would be quite happy.

The Hon. F. J. S. Wise: I think what he meant was that he couldn't care less.

The Hon. A. F. GRIFFITH: In the circumstances I regard that as a very helpful interjection. This is not to be a revenue-producing medium.

The Hon. R. Thompson: That will be a change.

The Hon. A. F. GRIFFITH: The fee prescribed will be a reasonable one to cover the exigencies of the case.

The Hon. R. C. MATTISKE: I disagree with the Minister when he said I destroyed myself with my own words. I still think a maximum amount should be set down in the Bill, whether it be £5 or £10. This does not detract from fixing an upper limit. The Minister has said that we can be sure the amount will be a reasonable one. Earlier we had a debate on the reasonableness of the amount to be charged for lodging an application with the Registrar of Companies. I still contend that the amount there was not a reasonable one.

The Hon. A. F. Griffith: You are casting a reflection on the vote of the Chamber.

The Hon. R. C. MATTISKE: If it is considered that £50 or £100 is a reasonable amount then a grave injustice will be done to certain people carrying on legitimate business.

The Hon. A. F. GRIFFITH: I will make inquiries tomorrow as to what we think might be a reasonable fee and I will inform the honourable member. The measure has to go to another place and the alteration could be made there.

Amendment put and negatived.

Clause put and passed.

Clause 8 put and passed.

Clause 9: Ground on which licence refused—

The Hon. E. M. HEENAN: I move an amendment—

> Page 7, line 16—Delete the words "a fit and proper person" and substitute the word "qualified".

A person has to apply to the court for a license and he will not obtain one unless the court is satisfied that he is of good fame and character. Therefore, first and foremost there is an onus on him to prove that to the court. As the Bill now stands, if he is able to satisfy the court in that regard, it is then necessary for him to satisfy the court that he is a fit and proper person to be a licensee. Apparently the Minister thinks that is about one and the same thing. I think the words "is a fit and proper person" mean that he has to show he has some qualifications.

The Hon. R. Thompson: What qualifications would you suggest?

The Hon. E. M. HEENAN: If a person is a motor mechanic or an electrician he has to have certain obvious qualifications. Do not honourable members think that anyone applying for a land agents license should have some special qualifications?

The Hon. A. F. Griffith: He does not need to under the Act at the moment.

The Hon. E. M. HEENAN: That is why people are registered as land agents who do not know the first thing about it. I am sure members of Parliament are inundated with complaints about some land agents and the stupid contracts they get old people to enter into. In the case under discussion, I would leave the qualifications to the discretion of the magistrate. I should think a person receiving a license would need to have some experience in commerce and arithmetic. Surely he should possess some educational standards!

The Hon. R. C. Mattiske: Does not the word "qualified' imply academic qualifications?

The Hon. E. M. HEENAN: If I were a magistrate, I would require a reasonable standard of education; perhaps some experience as a clerk with a firm that carried

on debt collecting. We want honest people in these positions, but we do not want fools. We want people with some qualifications. The word "qualified" means "possessing qualifications" as distinct from being of good fame and character.

The Hon. F. D. Willmott: Don't you think the Bill should lay down the qualifications?

The Hon. E. M. HEENAN: No, I would leave that to the magistrate. I do not suggest that a person should have a Leaving Certificate, a university degree, or accountancy certificate, but let us convey to the magistrate that we want these people to have some qualifications.

The Hon. F. R. H. LAVERY: I support the amendment because I think the first requisite is that these people should know something about the local court system and the processing of documents, because most of their actions will take place through the local courts.

The Hon. H. K. Watson: That is not so.

The Hon. F. R. H. LAVERY: I feel it is. That is why I am supporting the amendment.

The Hon. J. M. THOMSON: If we insert the word "qualified" I think it would be necessary to include in the definitions a definition of the word "qualified".

The Hon. A. F. GRIFFITH: If we insert the word "qualified" it will be necessary to lay down in the regulations what the qualifications will have to be. I maintain the qualifications are amply provided for. Therefore I cannot support the contention of the honourable Mr. Heenan. With due respect to the honourable member, I think the magistrate would be completely mystified when he was faced with this situation. The position in the Land Agents Act is exactly the same as this.

The Land Agents Act provides that the application shall be made. It may be objected to, but the court shall grant it provided the person is of good fame and character and if it is satisfied that the applicant is a fit and proper person to be the holder of a license. So far as land agents are concerned, I am pleased to hear these remarks because I propose to introduce a Bill in this connection. I have a Bill in mind—

The Hon. F. J. S. Wise: In print or in mind?

The Hon. A. F. GRIFFITH: At the moment it is not in print but it is not far away; so it is a little more than in mind. I refer honourable members to the wording at the top of page 6. A magistrate may say that he has a good character report, and a report in writing as to the person's suitability, and therefore he can be the judge of whether a person should be granted a license. The provision is in the Land Agents Act and it is here; so I hope we will leave the wording as it is.

The Hon. R. C. MATTISKE: I appreciate the honourable Mr. Heenan's point; but if we accept the word "qualified", it would imply academic qualifications. A more suitable word would be "competent"; but that word, in turn, means the same as "a fit and proper person." Surely, if a person is of good fame and character and a fit and proper person, there can be no misunderstanding. I think the provision should be left as it is.

Amendment put and negatived.

The Hon. F. J. S. WISE: We will be some time making progress unless we get some clarity on the matter. I think the honourable Mr. Heenan was on the right track. My concern about the word "qualified" was that we would need a definition of the word. I would suggest that we should insert the words "fitted by knowledge and special ability to be a licensee," if we wish to particularise.

The Hon. A. F. GRIFFITH: I point out that this could create a very close preserve for those who are already qualified; because those who are not qualified would not be able to obtain any experience and therefore could not be licensed.

The Hon. F. D. WILLMOTT: If we try to particularise, we will meet with difficulties. The wording is better left as it is.

Clause put and passed.

Clause 10: Cancellation of license—

The Hon. F. R. H. LAVERY: The words in subclause (5) at the top of page 9 appear to be redundant. What is the necessity for them?

The Hon. F. J. S. Wise: He cannot operate.

The Hon. A. F. GRIFFITH: The answer was given by interjection; namely, that he cannot operate. He can be suspended, and he cannot operate.

The Hon. F. R. H. LAVERY: We have had a case in connection with private inquiry agents. There is one disreputable person who is being brought before the court; but that person is still operating. Surely that situation is not going to be repeated!

The Hon. A. F. GRIFFITH: I invite the honourable member to turn back to the first clause where it provides that a person shall not carry on business unless he is licensed; and certain penalties are laid down.

Clause put and passed.

Clauses 11 and 12 put and passed.

Clause 13: Unlicensed persons not to recover fees, etc. —

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

> Page 10, line 1—Insert after the word "appointment" the words "either particular or general".

This will make it quite clear that there is no necessity for making a separate appointment in respect of each service; that the appointment may be particular or general. A creditor may say to a debt collector, "I hereby authorise you until otherwise directed to collect all debts which I henceforth forward to you at your usual rate of commission." That is all that should be necessary. There is room for doubt as to whether that is permissible, and this is really a drafting amendment.

The Hon. A. F. GRIFFITH: I do not think it is necessary. He can be authorised to collect all the accounts for a particular person or he can be authorised to collect one account. There are rare cases where people would have one account collected. If the appointment is of a general nature it will cover the circumstances. His engagement or appointment to act as debt collector is in respect of the service which he gives today, tomorrow, next year, or in 20 years' time. Many of these firms already have general service contracts.

The Hon. H. K. Watson: That is so, and that is the provision I want to preserve.

The Hon. A. F. GRIFFITH: You will preserve it by leaving it alone. I made inquiries in connection with stamp duty, and some offices were concerned whether they would have to pay stamp duty on renewed agreements. The reply was that there could be a general agreement. It now has to be in writing to cover such situations.

The Hon. H. K. WATSON: There should be no doubt that a general instruction is sufficient. I would prefer to see the words "debt collection services" included.

The Hon. A. F. GRIFFITH: I will go along with the amendment, and I will take the opportunity of checking the point with the Parliamentary Draftsman before we go forward to the third reading stage. If I am convinced that this amendment does not lend itself to good drafting, I will bring the matter before the Committee.

The Hon. H. K. Watson: I am quite prepared to accept that assurance.

Amendment put and passed.

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

> Page 10, line 2—Delete the word "service" and substitute the words "debt collection services".

The Hon. A .F. GRIFFITH: I am going to let this go; but it is entirely unnecessary. It relates to a service which the debt collector is going to give, and no-one else can give it. However, I will let it go and get the draftsman to give me his opinion.

Amendment put and passed.

The clause was further consequentially amended, on motions by The Hon. H. K. Watson, as follows:—

> Page 10, line 4—Delete the word "service" and substitute the words "debt collection services".
>
> Page 10, line 12—Delete the word "service" and substitute the words "debt collection services".

Clause, as amended, put and passed.

Clause 14 put and passed.

Clause 15: Duty of debt collectors in respect of trust money—

The Hon. H. K. WATSON: Before I move the amendment which I have in mind, I would be obliged if the Minister could explain to us the reason and the meaning of the words which constitute the last four lines on page 11.

The Hon. A. F. GRIFFITH: As I understand the drafting of the whole of clause 15. in the first instance it protects the trust money. It is a statutory requirement for the collector to disburse to the creditor within 45 days of collection—or within 14 days if required to do so in writing—the money so collected. The trust money must not be touched except for normal expenses, commissions, fees etc., or moneys owing to the debt collector by the creditor, or on the written authority of the creditor. The collector gets his written authority from the person entitled to give the direction; that is, the creditor or authorised agent.

The Hon. H. K. WATSON: Unless I have misunderstood the Minister, that seems rather ridiculous. I could understand paragraph (b) if it stopped at the end of subparagraph (ii). The money has to go into a trust account and then he shall not withdraw any part of it except to pay his commission, which is fair enough—or to pay any debt owing to him by the creditor. But surely he could do that without a written direction in each case, each month, and, presumably in respect of each cheque. The clause states "expressly directed to withdraw".

The Hon. A. F. GRIFFITH: I suggest we accept this matter for the present under the same conditions as I was prepared to accept the amendment previously passed.

The Hon. H. K. Watson: Certainly; but I do feel that those words are confusing.

The Hon. A. F. GRIFFITH: I will clarify the matter before the Bill completes its passage.

Clause put and passed.

Clauses 16 to 18 put and passed.

Clause 19: Power to Minister to direct audit of trust accounts —

The Hon. H. K. WATSON: I would like to test the view of the Committee on this clause. At the moment, as the clause stands, it is not mandatory to have an audit. It is purely at the discretion or option of the Minister. In order to make the position clear I move an amendment—

> Page 15, lines 24 to 32—Delete subclause (1) and substitute the following:—
>
> (1) Each debt collector shall have an audit of his trust account made at least once every year by an auditor who is a registered company auditor within the meaning of the Companies Act, 1961-62 and such auditor shall prepare and deliver to the Minister a report on the audit of the trust account.

That clause would virtually be in line with the existing provisions of the Land Agents Act. We must remember that these debt collecting companies handle up to £10,000 a month, and if an audit is going to be effective it should be run all the time and not merely when the Minister is of the opinion that it is desirable. One could find oneself in the same position as was mentioned earlier by the honourable Mr. Loton, regarding the Stanhill company.

The Hon. A. F. GRIFFITH: I would like to assure the Committee that I gave a great deal of careful consideration to this matter before I ultimately got the permission of Cabinet to present the Bill in this form. I was inclined to think that an audit of accounts was, in fact, very desirable. As I said earlier, one particular organisation in the business has its accounts audited voluntarily, and naturally enough is quite prepared to continue that practice.

Any debt collecting agency which may be operating has to comply with the requirements of the Companies Act. Many of the smaller organisations pointed out that in their opinion an audit would be an expensive business because auditors are paid according to the time spent on the job. There could be a great number of small sums involved and a fair amount of work needed to audit the accounts.

In view of the fact that the Bill lays down very specifically that the debt collector will not hold the money he collects for more than 45 days, or shall pay it on demand if demand is made within 14 days, I decided that I would submit to the Government for consideration that the clause could provide for an audit if it was considered necessary. If I thought it was necessary I would not hesitate to order an immediate audit.

There are passages in the legislation which makes it necessary for a bank officer to make available certain information. Taking all these things into consideration, and bearing in mind that there is no control whatsoever at present—and this Bill does give quite a deal of control—I thought it was a fair proposition to try it on this basis.

I do not personally know of any defalcation made by a debt collecting agency. I would ask the honourable member, under the circumstances, not to pursue the amendment. If time and experience show that the audit is necessary, we can change our minds. On the question of the stable door being closed after the horse has got out, I think there is less tendency for that to happen where the person handling the money has to pay it in every 45 days, than in many businesses where mistakes can go uncovered for periods up to 12 months.

The Hon. R. C. MATTISKE: I cannot agree with the amendment as proposed. I do not think it could serve any useful purpose and will only clutter up the work unnecessarily. If an audit is made compulsory it would be carried out once a year and any defalcation that might have occurred during that period would be unearthed.

Any creditor who has placed accounts in the hands of a debt collector would receive periodic statements showing the amounts which had been received in respect of certain accounts, and from which, of course, the debt collector would deduct his commission and expenses.

If there be any doubt in the mind of the creditor all he need do is send a statement to the debtor with the usual wording, "If there be anything in the account with which you do not agree, reply direct to such and such an address." Any defalcation on the part of the debt collector would immediately be made obvious, and the debtor could then apply to the Minister in accordance with the provisions of clause 19 to have a compulsory audit made of all the affairs of that debt collector. In view of that I do not think it would be necessary to have a mandatory audit.

The Hon. H. K. WATSON: I would point out that although it is true that a debt collector is obliged, within 45 days of the receipt of trust money, to send it to the creditor, who is going to ensure he does that?

The Hon. A. F. Griffith: The creditor.

The Hon. H. K. WATSON: I venture to say that 90 per cent. of the creditors who hand their accounts to debt collectors would probably not be aware of their rights to receive the money within 45 days; and, human nature being what it is, I feel the average creditor who hands his debts over to a debt collector would go about his ordinary business and if a cheque came in the mail now and again he would treat it

as a Christmas box or an Easter gift according to the period of the year when it arrives.

The Hon. F. J. S. Wise: Is not this provision to protect the creditor from the predator?

The Hon. H. K. WATSON: This is to protect the creditor from the debt collector.

The Hon. A. F. GRIFFITH: I draw the attention of the Committee to the fact that under clause 18 is set out the duties of the debt collector in respect of trust money whether the creditor likes it or not. If the debt collector does not pay out in accordance with the terms of that provision he commits a breach of the Act and is liable to a penalty of £100, and I should imagine he would be anxious to avoid the penalty.

Amendment put and negatived.

Clause put and passed.

Clause 20: Fidelity bond—

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

> Page 16, line 5—Delete the word "other" and substitute the word "greater".

Amendment put and passed.

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

> Page 16, line 11—Delete the word "three" and substitute the word "five".

I believe the bond should be the same whether the debt collector be a company or a natural person. At the moment the clause provides that it shall be £5,000 for a company and £3,000 for a natural person. I suggest the bond should be uniform.

The Hon. A. F. GRIFFITH: This is what one may refer to as the imperfections of the draftsman of the evening. I have gone a long way tonight with a page and a half of amendments of which I had practically no notice, despite the fact that this Bill was introduced by me last Thursday evening.

The Hon. H. K. Watson: That is not long, and had you waited until tomorrow the amendments would have been on the notice paper.

The Hon. A. L. Loton: The honourable member indicated what he proposed to do in his second reading speech.

The Hon. A. F. GRIFFITH: Yes, that is so. I am not complaining about that, because we have gone along all right up to date. However, if the Committee accepts this amendment I will have to have an opportunity to redraft the paragraph because one is duplicating the other. If the amendment is agreed to it will provide that a corporation shall pay £5,000 or a greater sum, and that a natural person shall pay £5,000 or a greater sum. Therefore, I think I will have to redraft the clause.

I was hoping the Committe would leave the clause as it is, the idea being that a corporation of two or more people would be doing more business. I know it is possible that one person will do more business than a corporation, but generally speaking, a corporation will do more business than a single person. I inquired as to what a fidelity bond would cost, and I ascertained that for a £5,000 fidelity bond it is in the order of £22 10s.

The Hon. F. J. S. Wise: It is cheap enough.

The Hon. A. F. GRIFFITH: The cost may be greater with some companies than it is with others. A lot depends, too, on the person who is the subject of the bond. However, if the honourable member desires that the sum shall be the same for both I will have to have an opportunity to redraft the clause.

The Hon. H. K. WATSON: I would like to hear some other honourable member air his views as to whether there should be uniformity with the bond.

Amendment put and passed.

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

> Page 16, line 12—Delete the word "other" and substitute the word "greater."

Amendment put and passed.

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

> Page 16, line 14—Insert after the word "Minister" the words "or in some form of security approved by the Minister".

The Hon. A. F. Griffith: Would it not be better if you said, "in some other form"?

The Hon. H. K. WATSON: I do not think so; I think the wording of the amendment is quite all right.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 21: Termination of fidelity bond—

The Hon. H. K. WATSON: I hope the Minister will not regard me as being pernickety, but as the clause stands at the moment it leaves too much to implication so I move an amendment—

Point of Order

The Hon. R. C. MATTISKE: On a point of order, Mr. Chairman, in view of the recent amendment by the Committee to clause 20, would it not be necessary to effect a further amendment in line 16 by inserting after the words "fidelity bond" the words "or other security"?

The Hon. H. K. WATSON: I do not think so, because basically clause 21 is confined to fidelity bonds given by insurance companies.

Committee Resumed

The Hon. H. K. WATSON: I would ask the Minister to look at the point I have mentioned. I move an amendment—

> Page 16, line 29—Insert after the word "shall" the words "to the extent of the amount of the bond".

If the wording is agreed to as it appears in the clause, it would be a positive statement that the insurance company is liable for all the money received by a licensee.

The Hon. A. F. GRIFFITH: If a person elected to go into the business of debt collecting and obtained a bond for £5,000, and then things went wrong and he incurred debts of £6,000, does the honourable member suggest that the bond from the insurance company would cover that person for an amount greater than £5,000? I would be amazed if it did, because the premium paid is in respect of a bond for £5,000, and no more.

The Hon. H. K. WATSON: If the insurance company's obligation rested upon nothing more than the contractual relationship between the insurer and the insured, then I entirely agree with the Minister.

The Hon. A. F. Griffith: What else would it involve?

The Hon. H. K. WATSON: The Statute, which overrides both. The Statute provides that the insurance company shall be liable without limit.

The Hon. A. F. GRIFFITH: The obligation of the insurance company which executed the bond for £5,000 shall as from the date specified, which is the termination date, be determined, but notwithstanding such determination the insurance company shall continue to be liable—

> (i) in respect of all penalties, damages and costs adjudged against the licensee to whom the bond relates in respect of any act, done or omitted before the date of the determination of the bond; and
>
> (ii) for the due accounting after the specified date by the licensee to the persons entitled thereto, of all trust money received by the licensee before the specified date.

The Hon. H. K. Watson: Paragraph (ii) states that the insurance company shall be liable for the due accounting of all trust moneys.

The Hon. A. F. GRIFFITH: Surely such a bond should not involve the insurance company in an amount greater than that contracted for.

The Hon. H. K. Watson: I agree; but the prospect is so alarming that the provision in the clause should be clarified.

The Hon. A. F. GRIFFITH: It appears to me to be clear. However, I shall accept the amendment on the strict understanding that I can ask for it to be taken out, if that is found to be necessary.

Amendment put and passed.

The Hon. H. K. WATSON: I notified the Minister of two other amendments which I proposed to move to subclauses (3) and (4). I am prepared to defer the moving of those amendments, if the Minister will take heed of the point I made earlier. Those two subclauses require clarification or deletion. The question which arises is that the first person who sues will receive priority over everyone else who sues. What would happen when the fund was exhausted? Will the latecomers be left out, or will there be a *pro rata* distribution? The Minister interjected earlier and said it should be left to the ordinary processes of the law. That is a good idea, and that would result in the deletion of subclauses (3) and (4).

The Hon. A. F. Griffith: I shall look into this point.

Clause, as amended, put and passed.

Clauses 22 to 26 put and passed.

Title put and passed.

Bill reported with amendments.

STATUTE LAW REVISION BILL

Returned

Bill returned from the Assembly without amendment.

BILLS (2): RECEIPT AND FIRST READING

1. Wheat Products (Prices Fixation) Act Amendment Bill.
2. Agricultural Products Act Amendment Bill (No. 2).

Bills received from the Assembly; and, on motions by The Hon. L. A. Logan (Minister for Local Government), read a first time.

House adjourned at 11.9 p.m.