Mr. EVATT (Hurstville), Minister for Education [11.4]: I give the hon. member my assurance that between now and the presentation of the bill to the Legislative Council I will give consideration to his suggestion and if there is no objection to it I will certainly have an amendment embodying it inserted in the Upper House.

Mr. HUNTER (Croydon) [11.5]: It is essential that these children should be contacted as early as possible, otherwise they will go without language and without thought, and their physical disability will become a mental one. I accept the Minister's assurance.

Clause agreed to.

Bill reported without amendment; report adopted.

By consent, bill read a third time.

[*Mr. Speaker left the chair at 11.8 p.m. until 11 a.m. Wednesday.*]

Legislative Council.

Wednesday, 29 March, 1944.

Rural Bank (Personal Loans Department) Bill—First Readings—The St. Mark's Darling Point (Church Lands) Bill (second reading)—Public Health (Amendment) Bill—Prickly-pear (Amendment) Bill (second reading)—Public Health (Amendment) Bill.

The PRESIDENT took the chair.

The opening Prayer was read.

RURAL BANK (PERSONAL LOANS DEPARTMENT) BILL.

Royal assent to this bill reported.

FIRST READINGS.

The following bills were received from the Legislative Assembly and read a first time:—

Fire Brigades (Amendment) Bill.

Public Instruction (Blind and Infirm Children) Amendment Bill.

Public Trusts (Amendment) Bill.

Government Railways (Rates) Amendment Bill.

THE ST. MARK'S DARLING POINT (CHURCH LANDS) BILL.

SECOND READING.

The Hon. Sir HENRY MANNING [4.38]: I move:

That this bill be now read a second time.

The bill has been rendered necessary by the accidental use of a term in the declaration of trust. This declaration of trust was made by a number of gentlemen and it dealt with a portion of land in the parish of St. Mark's, Darling Point. The object of the declaration of trust was to vest this land in the trustees for the purposes named, and the chief purpose for which the land was dedicated was the ordinary ecclesiastical work of the parish. The declaration of trust was perfectly clear in all respects except one. That was that it used the word "parochial" instead of the word "charitable," which had a very marked effect on the legal situation arising from the declaration of trust. The consequences are serious, because there is in existence a law known as the law against perpetuities. That law provides that a trust shall not be constituted so as to last for more than a certain period. There is, however, an exception to the rule against perpetuities. It does not apply in the case of charitable trusts, so that in the case of charities there is no need to bother about it. It is realised that a charitable trust might last for an indefinite period, and may go on forever. The difference between the use of the word "parochial" and the use of the word "charitable" is that in the first case the law of perpetuities applies after a certain period, whereas the word "charitable" makes the trust a charity and the law against perpetuities does not apply.

Those who are concerned with the declaration of trust had no intention to take the matter out of the category of a charity, so bringing it within the ambit of the rule against perpetuities. All those who are interested in any way in the trust have been approached and have signified their complete assent to the presentation of this measure to the

House, and all those subscribers who can be found have expressed their concurrence and represent what might be considered the general opinion of the whole of the parish of St. Mark's.

Furthermore, advertisements have been inserted in the daily press as required by the standing orders, so that there can be no doubt whatever that every effort has been made to ascertain whether there is any objection to assent being given to the bill, and there has not been the slightest indication of any objection. The matter was referred by this House to a select committee, which has gone very fully into it. The result of the inquiries of that committee is embodied in a report which is now on the table, and which recommends to the House the acceptance of the measure.

The Hon. R. R. DOWNING (Minister of Justice and Vice-President of the Executive Council) [4.48]: I formally desire to indicate that there is no objection whatever by the Government to the bill proposed by the hon. member.

Question resolved in the affirmative.

Bill read a second time and reported from Committee without amendment; report adopted.

With concurrence, bill read a third time.

PUBLIC HEALTH (AMENDMENT) BILL.

IN COMMITTEE.

(The Hon. W. C. CAMBRIDGE in the chair.)

(Consideration resumed from 23rd March, *vide* page 1937.)

Clause 2. (Interpretation.)

Captain the Hon. W. J. BRADLEY [4.52]: I should like the views of the Minister in regard to the definition of "offensive matter." I do not intend my criticism to be hostile. I wish it to be constructive. Ordinarily, dust, mud and soil are not regarded as offensive matter.

The Hon. R. R. DOWNING (Minister of Justice and Vice-President of the Executive Council) [4.53]: The material part of the Principal Act to which the definition "offensive matter" applies, is Part VII. It will be noted that clause 8 of the bill amends section 64—the "Nuisances" section. Under that section there are certain provisions for the giving of notice regarding the abatement of a nuisance, for proceedings in default of compliance with such notice, and in respect of certain powers relating to non-compliance. Orders with respect to the abatement of nuisances are made by a magistrate or a justice, and section 69 makes provision for the right of appeal by any person aggrieved by such orders.

Captain the Hon. W. J. BRADLEY: Smoke is not classified as offensive matter!

The Hon. R. R. DOWNING: No. With respect to mud and soil, I have been advised that certain places have been used for the dumping of night soil, and experts of the department say that the ground where such soil is dumped may be impregnated with certain fumes for fifteen years.

Captain the Hon. W. J. BRADLEY: It would meet my views if that were made clear!

The Hon. R. R. DOWNING: I suggest that if the hon. member sees any part of the bill to which the application of the definition is undesirable, the better course would be for him to suggest an amendment at the appropriate stage.

Captain the Hon. W. J. BRADLEY [5.0]: I appreciate what the Minister says, and I should be quite satisfied if on page 5 those substances were prefaced by the word "infected." As it is now, any dust at all would be offensive matter. As the Minister points out, section 64 of the Principal Act, which deals with nuisances, will be deleted and a new section 64 inserted. That is all right, because section 64 in the old Act may not be wide enough. In clause 8 the Minister will see that the Principal Act is amended by omitting section 64. It may be that a new section 64 is required, to which I do not raise objection. It will be most important to consider what is offensive matter as defined in the bill. Under the definition, dust, mud or soil is

entirely different from dung, offal or manure. If what is nothing more than simply dust or soil is going to be treated as offensive matter, then we are going much further than is necessary. Will the Minister make clear what is meant? Are ordinary dust and soil offensive matter?

The Hon. R. R. DOWNING: Ordinary waste!

Captain the Hon. W. J. BRADLEY: It might not be. The definition is, "which is offensive or is likely to become offensive." Waste matter thrown into a drain may at the time not be offensive; but after it has remained there for a few hours it becomes offensive. My point is that simple soil should not be left as being offensive matter, without some indication as to why it is going to be treated in this measure as offensive?

The Hon. Sir NORMAN KATER [5.3]: On the other hand, ordinary dust may or may not be offensive. An industry might create dust in considerable quantities, and, if the dust is blown on to adjoining premises, it certainly would be very offensive. It depends entirely on the circumstances. Notwithstanding how inoffensive dust might be on certain premises, it may become very offensive when blown on to adjoining premises.

The Hon. E. C. O'DEA [5.4]: I have been in touch with the City Council health officers from time to time to ascertain what powers they have in regard to dust expelled by mechanical means. At present there are no means of dealing with that. I think the clause should be in the broadest possible terms. There is always a certain amount of dust in connection with waste. For example, bags that are used to contain certain vegetables, when dried, give off dust. That is the point mentioned by the Hon. Dr. Kater. Then we find that people sometimes dump the cleanings of their factories.

Captain the Hon. W. J. BRADLEY: That is in the Factories and Shops Act!

The Hon. E. C. O'DEA: But the definition is much wider in defining what these things are.

Captain the Hon. W. J. BRADLEY: It covers the whole State!

The Hon. E. C. O'DEA: Yes. I would say there are good grounds for the definition to be as wide as possible. It is always necessary for a court to determine whether there is an offence or not; so the person charged has ample opportunity of showing any point that he may have to prove that no nuisance has been created.

Captain the Hon. W. J. BRADLEY: We are simply declaring on the definition that these things are offensive!

The Hon. E. C. O'DEA: Yes, but something else has to take its place. The fact that there is dust on the walls of a building may not in itself be offensive; but, if it interferes with the health or well-being of the employees, it might become offensive.

The Hon. R. R. DOWNING [5.6]: The definition of offensive matter is only relevant to the Act in the nuisances provision of the bill. If hon. members examine section 65 they will see that no action can be taken except by the local authority, which is the shire or municipality. The first step to be taken before anything can be declared a nuisance is a notice served by the local authority for its abatement. The local authority has first of all to be satisfied that there is a nuisance. If they are unreasonable, there is provision under section 69 for it to be dealt with summarily by the Magistrate, from whose decision there is the right of rehearing by a Court of Appeal. It is not intended by the definition in this bill that a private individual may take action in regard to offensive matter. It is simply a provision that requires the proceedings, in the first instance, to be initiated by the local authority.

The Hon. Sir HENRY MANNING: Does not it bring into operation clause 66 (3)?

The Hon. R. R. DOWNING: That is so.

The Hon. Sir HENRY MANNING: Proceedings may be instituted by a constable of police according to the definition of "officer." That may be done after notice has been given to abate, but I shall refer to that later!

The Hon. R. R. DOWNING: That is so, but it is still the position that the initial proceedings have to be taken by the local authority, and there is still the right of appeal. That will not interfere with what I am trying to put to the Committee.

Captain the Hon. W. J. BRADLEY: Do I understand the Minister to say now that the new definition of offensive matter is only going to arise in connection with new section 64? There is no definition in any of these acts of "nuisance"!

The Hon. R. R. DOWNING: No. This is the position. The definition of offensive matter is material in clause 8 (g) of the bill, which reads:—

> Any premises from which smoke, soot or other matter, or dust or effluvia are emitted so as to be dangerous or prejudicial to health or offensive;

New section 64 (g) refers to matter which may be offensive, declaring that premises from which it is emitted shall be a nuisance. That section should be sufficient without the new definition. I think the Minister will agree that the proposed new section is not intended to deal with factories, because they are dealt with under their own Act. This covers the position generally affecting the whole community.

The Hon. E. C. O'DEA: When the offensive matter leaves the factory, it will come within this bill!

Captain the Hon. W. J. BRADLEY: It will still come under the Factories and Shops Act. If this definition does not apply to anything in the bill or the Act, it is going too far.

The Hon. R. R. DOWNING: I suggest that clause 2 might be postponed for the time being. I must admit that I cannot see any reference in the bill or the Act as it is amended by the bill to "offensive matter."

Clause postponed.

Clause 5. The Principal Act is further amended—

. . . . . .

(c) by inserting at the commencement of Division 3 of Part III the following new section:—

> 32A. (1) A medical officer of health or a legally qualified medical practitioner authorised either generally or in any particular case in that behalf by the President may by order in writing direct that the person named therein (being a person suffering from an infectious disease) be removed to the hospital named in the order (being a hospital available for the reception and treatment of persons suffering from the infectious disease).
>
> (2) (a) A medical officer of health or a legally qualified medical practitioner so authorised may make an order under this section in respect of a person suffering from an infectious disease in any case where he deems it expedient so to do in the interests of public health.
>
> (b) A medical officer of health or a legally qualified medical practitioner so authorised shall make an order under this section in respect of a person suffering from an infectious disease in any case where he is satisfied that such person is without proper lodging or accommodation or is living in a house in which he cannot be effectually isolated so as to prevent the risk of the infection spreading to other persons living in the house.

. . . . . .

(i) by inserting next after section forty-nine the following new section:—

> 49A. If a medical officer of health or assistant medical officer of health has reason to believe that any person is suffering from leprosy or is a contact of a case of leprosy he may by order in writing direct such person to submit to medical examination at such time and place as may be specified in the order.
>
> Any person upon whom an order under this section is served shall comply with the directions of the order, and if he neglects or refuses to do so he shall be liable to a penalty not exceeding five pounds.

. . . . . .

The Hon. Sir HENRY MANNING [5.13]: I direct the attention of the Committee to proposed new section 32A. Subsection (1) reads as follows:—

A medical officer of health or a legally qualified medical practitioner authorised either generally or in any particular case in that behalf by the president may by order in writing direct that the person named therein (being a person suffering from an infectious disease) be removed to the hospital named in the order (being a hospital available for the reception and treatment of persons suffering from the infectious disease).

A medical officer of health or a legally qualified medical practitioner may do what is provided in that new subsection. A legally qualified medical practitioner may do it if he is authorised. His authorisation may be a general authority or an authority in relation to a particular case. The criticism I have to make of this is that a legally qualified medical practitioner should not be authorised generally. If he is authorised in a particular case the position is different. To give a legally qualified medical practitioner a general authority is to give that authority to a person who has no responsibility to the executive, a person whose responsibility arises only from the fact that he is a member of the medical profession. If the selection of such a person were a bad one, and he were given this general authority he would be given something that it is very dangerous to confer on him. The medical officer of health is the person indicated first of all. The legally qualified medical practitioner if authorised in a particular case is satisfactory, but it is where you have the general authorisation that the danger arises. The importance of it is that this individual is authorised to direct by order in writing that the person named therein be removed to the hospital named in the order. It is a very serious order to make, that a person be removed from one place to another.

The place to which he is to be removed is "a hospital available for the reception and treatment of persons suffering from the infectious disease." Is the generally authorised medical practitioner to order removal to such a hospital without having to satisfy himself first of all that accommodation is available in the hospital for that particular case? The words "being a hospital available for the reception and treatment of persons suffering from the infectious disease" are words merely descriptive of the hospital and not imposing a condition necessary before the removal can be ordered. We reach the stage then that a medical practitioner having a general authority may direct the removal of a person from a house to a hospital out of mere caprice and without fully satisfying himself either that it is a case for removal or that the hospital can actually provide accommodation. The proposed new section continues:

(2) (a) A medical officer of health or a legally qualified medical practitioner so authorised may make an order under this section in respect of a person suffering from an infectious disease in any case where he deems it expedient so to do in the interests of public health.

A medical officer of health should have that power because he might deem it expedient to exercise that power in the interests of public health. There can be no objection to that. A "legally qualified medical practitioner so authorised" is given the same power. If he has a special authority that is not objectionable, but it is in the case of a general authority. The Legislature directs the attention of these individuals to the interests of public health which they are to secure. The subsection further provides that:

(b) A medical officer of health or a legally qualified medical practitioner so authorised shall make an order under this section in respect of a person suffering from an infectious disease in any case where he is satisfied that such person is without proper lodging or accommodation or is living in a house in which he cannot be effectually isolated so as to prevent the risk of the infection spreading to other persons living in the house.

It is obligatory upon him to make such an order if he is satisfied as to those matters, although he may not be in a position to know whether accommodation is available at the hospital to which the

person is to be removed. It is then provided that such an order shall be addressed generally to the local authority and its officers and to all members of the police force; and that the directions of the order shall be carried into effect by any officer of the local authority or any member of the police force upon whom it is served. So that, if a person in an ordinary household is suspected of having an infectious disease, a medical practitioner with a general authority can direct his removal to a hospital without previously having satisfied himself that accommodation is available at the hospital. If, in such circumstances, a member of the family protests, then that member of the family is told in subsection (5) of proposed new section 32A what will happen to him. Subsection (4) of proposed new section 32A provides that any officer or member of the police force upon whom the order has been served who, without just cause, neglects or fails to carry into effect the directions of the order, shall be guilty of an offence and shall be liable to a penalty not exceeding ten pounds, so that it is obligatory on the police officer to remove the person, quite apart from the question as to whether or not accommodation is available for him.

Subsection (5) provides that any person who obstructs or hinders any such officer or member of the police force carrying into effect the directions of the order shall be guilty of an offence and shall be liable to a penalty not exceeding ten pounds. Any member of the family who interferes with an officer who proceeds to remove from a household a person who is said to be suffering from an infectious disease with the object of taking him to a hospital, even if there is no certain knowledge whether accommodation is available, is guilty of an offence, and is liable, on conviction, to a fine not exceeding £10. I put it to the Committee that that provision contains certain elements of danger, particularly as hon. members are aware that hospital accommodation at the present time is totally inadequate for the needs of the community. At the same time the Government is to be commended for attempting to deal with the matter. The question is whether it has been properly dealt with, or whether the bill has gone too far.

I suggest for the consideration of the Minister that the whole effect of this particular proposal might be retained if at the end of proposed new subsection (1) the words "having the accommodation necessary for the particular case" were added. I make that suggestion in order to provide that such things may happen only where the hospital to which the removal is to take place has accommodation available to receive the person concerned. Otherwise a person in a dangerous state of health might be sent all over the city, from one place to another, without any attempt being made beforehand to ascertain whether accommodation is available. If the Minister does not like those words, I am quite prepared to consider any equivalent proposal. I suggest also the insertion at the end of proposed subsection 2 of the words "and that the said hospital has then the accommodation necessary for the particular case." If those words were inserted they would have the effect of removing any objection that I can see to that provision at the present time. I believe they will have the effect also of carrying out the desire of the Government and of making the clause more water-tight. In its present form, the provision referred to might, in some cases, work a very grave injustice.

The Hon. R. R. DOWNING (Minister of Justice and Vice-President of the Executive Council [5.26]: Infectious diseases are those diseases that are notified by proclamation under the Act. Such complaints as influenza are not diseases under the Act. I have explained the view of the department with regard to this particular matter. One of the objections raised by the hon. member is as to the general authorisation of a medical practitioner. The president of the board has informed me that no authorisation would be given in the Sydney or Newcastle areas, which are the only areas that have Government medical officers. The provision for the general

authorisation of a medical practitioner is to meet the cases of larger country towns where the doctor to be licensed would be a Government medical officer, who is almost invariably the doctor with the longest practice in the locality. The Board of Health would have no objection to the removal of the general authorisation in respect of the cities of Sydney and Newcastle, because it is not intended to authorise anyone in those cities with this power. If the Committee feels, after that explanation, that the danger is still there—and I recognise that the board would still have power to give a general authorisation—I think it would be preferable to eliminate the words "either generally or" in subsection (1) of proposed new section 32A, but I ask the Hon. Sir Henry Manning first of all to consider the provisions as they are. The elimination of the words "either generally or" would mean that the only person who could give such a direction would be a medical officer of the Board of Health or a legally qualified medical practitioner authorised in any particular case by the board. The general medical practitioner is, of course, left out of consideration in the metropolitan and Newcastle areas, because it is not sought to have a general authorisation in those areas. I appreciate the point raised by the Hon. Sir Henry Manning as to the difficulty at present existing so far as hospital accommodation is concerned.

The Hon. Sir HENRY MANNING: That is the main thing!

The Hon. R. R. DOWNING: I explained the method by which it is proposed to exercise these powers for the purpose of showing just what was in mind if the bill is passed.

There are certain infectious diseases that necessitate the sufferer being taken to a hospital. I do not think there is any doubt that a Government health officer could arrange for a hospital to take such a patient. I understand that the Prince Henry Hospital at Little Bay takes the majority of infectious cases. It has the facilities for isolation. I do not know what the relationship is between that hospital and the Board of Health, but I do know that there is a very definite tie-up between it and the department. I think that the Prince Henry Hospital is in a different position from the Royal Prince Alfred Hospital. It is more or less a semi-Governmental institution.

The Hon. Sir HENRY MANNING: Let this matter be made certain!

The Hon. R. R. DOWNING: There is only this difficulty. There might be a case of smallpox in a small country town, and the local hospital might not wish to admit the patient.

The Hon. Sir HENRY MANNING: Then the provision would not operate. It relates only to the sending of a patient to a hospital!

The Hon. R. R. DOWNING: That is so. There must be a hospital available. I do not think that if a hospital had an isolation ward it would refuse to take an infectious case. From the public standpoint I think it would be better to make provision to compel hospitals to take infectious cases.

The Hon. Sir HENRY MANNING: It might be physically impossible for them to do so!

The Hon. R. R. DOWNING: That might be so in the event of an epidemic. When there was an epidemic of Spanish influenza—an infectious disease, it was necessary to provide special hospitals for patients. I do not think it is suggested that there will be any wholesale ordering of infectious cases to hospitals in circumstances such as that, as it would be a stupid use of power.

Captain the Hon. W. J. BRADLEY: It occurred during the outbreak of pneumonic 'flu.!

The Hon. R. R. DOWNING: In this instance we are thinking about the Sydney area. The officers of the Department of Health are the only persons who will exercise this authority.

Captain the Hon. W. J. BRADLEY: I agree with the Hon. Sir Henry Manning that it would be better to find out whether a hospital can take a patient!

The Hon. R. R. DOWNING: I do not know about a hospital being available for persons suffering from infectious diseases. Probably what the hon. member says is right, but I prefer to leave the provision as it is, and if the Committee feels that a danger exists in this general authorisation, let the authorisation be dispensed with.

The Hon. Sir HENRY MANNING: The general authorisation is not nearly so important. I mentioned it because it adds to the importance of the other matter.

The Hon. R. R. DOWNING: I do not agree with the hon. member on that.

The Hon. Sir HENRY MANNING: I have known of cases being ordered to a hospital where there was no accommodation!

The Hon. R. R. DOWNING: I know of an instance of a person residing in a Sydney hotel who contracted an infectious disease and refused to leave, and there was no authority to compel him to do so.

The Hon. Sir HENRY MANNING: A person could not be ordered into the street because he was suffering from cancer or tuberculosis. He must go somewhere!

The Hon. R. R. DOWNING: Quite so, but I think the hon. member is doing an injustice to the medical officers of the Board of Health.

The Hon. Sir HENRY MANNING: On the contrary, I have the greatest respect for them and I pay a tribute to the hospitals!

The Hon. R. R. DOWNING: The hon. member is anticipating me. If he attributes to the hospitals the same desire to co-operate as he does to the medical profession, we can leave the bill as it stands.

The Hon. W. E. V. ROBSON [5.36]: The Minister would be well advised to accept the suggestion made by the Hon. Sir Henry Manning. The objection, so far as I see it, is not to the general terms of the provision relating to the medical man, but to the obligations that are placed upon him. In the first case action is not mandatory upon these medical officers. They may act if they think it is advisable, and I take it that before they do so they will ascertain whether there is accommodation in a nearby hospital for the reception of the patient. In proposed new subclause (2) (b), the obligation placed upon the medical officer is mandatory. It directs what he shall do, whether there is accommodation or not. A patient might be ordered into the street or to some unknown destination. Why make it mandatory on the medical practitioner to do the impossible if he cannot find accommodation in a hospital? The amendments proposed by the Hon. Sir Henry Manning are quite simple. They provide the safeguard that there must be accommodation available for the person who is removed. No hospital that has accommodation will say that it has none. The medical man will ascertain whether it is available. If he is to act willy-nilly, whether there is accommodation or not, we place upon him an obligation that he should not be called upon to carry. I cannot understand why the Minister does not accept the simple provision suggested by the Hon. Sir Henry Manning. The whole thing is contingent upon accommodation being available.

Captain the Hon. W. J. BRADLEY [5.39]: I ask the Minister to consider this matter. As the Hon. Mr. Robson has pointed out, proposed new subsection (2) reposes discretion in the medical officer. There is no discretion if he is satisfied that the sick person is without lodging or accommodation, or that he is living in a house where he cannot be effectively isolated. Take the suppositious case of a person residing in a city hotel who suffers from enteric fever or smallpox. Everyone will agree that a hotel is an unsuitable place for him. The doctor would have to make provision before the patient was removed to hospital. The doctor may order his removal to Sydney Hospital, and later he is transported by ambulance.

The Hon. R. R. DOWNING: You have to get an ambulance for him!

Captain the Hon. W. J. BRADLEY: I would not suggest that anyone would be so hard-hearted as to expect such a patient to be transported in a taxi or a truck. My experience is that members of the medical profession are considerate and take all reasonable care of their patients. As has been pointed out by the hon. member, the Legislature is placing on a medical practitioner a duty from which there is no escape, namely, that if a patient should be removed, an order must forthwith be made for his removal. It is very annoying for persons who are ill and are sent to hospital to have to wait in the waiting room. Something may go wrong and the unfortunate patient dies. There is an inquest, and public opinion becomes inflamed against that particular medical man. That kind of thing will very probably happen——

The Hon. R. R. DOWNING: Does the hon. member mean that an officer of the Board of Health would order someone to hospital in those circumstances?

Captain the Hon. W. J. BRADLEY: I am pointing out that there is no obligation under the Act for him to find out whether the hospital can take the patient.

The Hon. R. R. DOWNING: Is there any obligation under the Act for the hospital to take him?

Captain the Hon. W. J. BRADLEY: As far as I can see, there is not.

The Hon. R. R. DOWNING: You would have to have such a provision!

Captain the Hon. W. J. BRADLEY: I am sure the Minister does not mean what he says, because we are dealing with a subject that will be of benefit to the community, namely, the protection of the community from infection, and ensuring that the unfortunate sufferer will get proper treatment. In some country towns little hospital accommodation is available and, if it is to be mandatory on the doctor to order removal, what objection can there be to providing in the bill that before removal is ordered it shall be ensured that hospital accommodation is available. It seems to me to be just common sense. I do urge that upon the Minister. It is not unreasonable, and it is no adverse criticism of the principle of the bill or of the medical profession.

The Hon. Sir NORMAN KATER [5.45]: I am thoroughly in accord with the spirit behind this clause, and I agree with the Minister that in certain cases it is an advantage to give the doctor the powers that it is intended to give him under this bill. I agree with the Minister in trusting doctors and hospitals to be reasonable. With regard to the mandatory provision in paragraph (2) (b) of proposed new section 32, it is mandatory only if the doctor is satisfied. He need not take action unless he wishes to. That provision reads:

> (b) A medical officer of health or a legally qualified medical practitioner so authorised shall make an order under this section in respect of a person suffering from an infectious disease in any case where he is satisfied that such person is without proper lodging or accommodation or is living in a house in which he cannot be effectually isolated so as to prevent the risk of the infection spreading to other persons living in the house.

So it is not necessary unless he decides it is mandatory. On the other hand, I entirely approve of a reservation such as the Hon. Sir Henry Manning has proposed. In my opinion it would not have a deleterious effect on the spirit of the bill.

The Hon. R. R. DOWNING [5.47]: I shall give consideration to the way in which the medical practitioner would exercise this power and the obligation on hospitals to take infectious cases. No medical practitioner in Sydney or Newcastle will be authorised to give these directions; only a qualified medical man in the employ of the Board of Health may do so. I know that the bill gives great power, and that is why, if the Committee has doubt as to the conferring of the power on medical practitioners generally, I would delete the general authorisation, and then the medical practitioner need authorise only in a particular case.

Captain the Hon. W. J. BRADLEY: Has Dr. Morris any objection to the amendment?

The Hon. R. R. DOWNING: I do not know, but I say that it is a reflection on the medical officers who direct people to hospitals, when they are under the control of the executive. It is only reasonable to make provision here to compel the hospital to take such patients.

Captain the Hon. W. J. BRADLEY: Not to compel them, but to see if accommodation is available!

The Hon. R. R. DOWNING: They may say that they have so many beds, but that they are being kept for someone else.

Captain the Hon. W. J. BRADLEY: You desire the authorities to compel?

The Hon. R. R. DOWNING: Yes.

Amendment agreed to.

The Hon. Sir HENRY MANNING [6.48]: It seems to me that the Minister has fully recognised the principle, but it appears to me that he is willing to leave it to the discretion of medical practitioners and the hospitals, and I desire to have it inserted in the legislation as a qualification. The one thing operates as a certainty when we are considering the health of the individual and his safety, and the Minister's attitude leaves it entirely to chance in a particular case. The question for the Committee, therefore, is whether the safety of a sick person is to depend on mere caprice or chance or whether the position of the patient is to be safeguarded by the insertion of an amendment that cannot in any way cut across the principle advocated by the Minister. In fact, it makes that principle hidebound by an actual provision in the legislation. I put it to the Minister that it is time more consideration was given to these things, quite apart from the question of qualification, when the safety of the individual is a matter of doubt. In this legislation we can make the position absolutely certain, and I put it to the Committee that is the proper thing to do. As I have no response from the Minister, I move:

That there be added to subsection (1) of proposed new section 32A the words "having the accommodation necessary for the particular case".

I propose to ask the Committee later on to insert a similar amendment in subsection (2) (b), where the removal is made obligatory. In the case where it is optional the order may be made in ignorance as to whether the accommodation is there is not, and in the case where it is compulsory the order has to be made whether it is known the accommodation is there or not. The position seems to be hopeless in either case without these words, which are perfectly innocuous and do not interfere with the principle of the provision.

The Hon. J. STEWART: Does not the wording of the proposed new subsection meet the position?

The Hon. Sir HENRY MANNING: I have already indicated that those are merely descriptive words and do not impose a condition.

Question—that the words proposed to be added be so added—put. The Committee divided:

Ayes, 14; noes, 18; majority, 4.

AYES	
Armstrong, T.	Pratten, F. G.
Bassett, G. D.	Robson, W. E. V.
Bradley, Captain	Steele, Lt.-Colonel
Brooks, K. G.	Tonkin, J. H.
Henley, H. S.	
Horne, H. E.	*Tellers,*
Kater, Sir Norman	Moulder, H. C.
Manning, Sir Henry	Wragge, H. M.

NOES.	
Concannon, J. M.	O'Dea, E. C.
Dalton, C. A.	Parry, S. E.
Dickson, W. E.	Savage, R. E.
Downing, R. R.	Stewart, J.
Gibb, W. J.	Williams, S. C.
Hackett, C.	Wright, E. G.
Harrison, E. J.	
King, R. A.	*Tellers,*
McNamara, A. W.	Alam, A. A.
Mahony, R.	Martin, J. B.

Question so resolved in the negative.

Amendment negatived.

The Hon. Sir HENRY MANNING [6.0]: The portion of clause 5 that makes it mandatory on a medical officer of health or a legally qualified medical practitioner to make an order is subsection (2) (b) of proposed new section 32A. The imposition of a condition such as I have already mentioned is absolutely necessary in order to secure

safety. If the direction is to be a mandatory one, and it is to be obligatory on the medical officer of health or the legally-qualified medical practitioner to make the order, a danger would be present. I move:

That there be added to subsection (2) (b) of proposed new section 32A the words, "and that the said hospital has then the necessary accommodation for the particular case."

Question—that the words proposed to be added be so added—put. The Committee divided:

Ayes, 14; noes, 16; majority, 2.

AYES.

Armstrong, T.	Pratten, F. G.
Bradley, Captain.	Robson, W. E. V.
Brooks, K. G.	Steele, Lt.-Col.
Henley, H. S.	Wragge, H. M.
Horne, H. E.	
Kater, Sir Norman	*Tellers,*
Manning, Sir Henry	Bassett, G. D.
Moulder, H. C.	Tonkin, J. H.

NOES.

Concannon, J. M.	O'Dea, E. C.
Dalton, C. A.	Parry, S. E.
Dickson, W. E.	Stewart, J.
Downing, R. R.	Williams, S. C.
Gibb, W. J.	Wright, E. G.
Hackett, C.	
Harrison, E. J.	*Tellers,*
King, R. A.	McNamara, A.W.
Martin, J. B.	Savage, R. E.

Question so resolved in the negative.

Amendment negatived.

The Hon. R. MAHONY [6.10]: As Whip of my party, I wish to protest against the inadequate provision made for members to hear the division bells when they are rung, I was washing my hands in the lavatory and did not hear the bell. Members have for a long time been complaining about the bells failing to ring in that corridor. Important legislation might be defeated or won by a vote. My vote might have made all the difference in the world. I was here on the spot when the bell rang.

The Hon. Sir NORMAN KATER: The hon. member would have voted on the wrong side!

The Hon. R. MAHONY: I would not. A number of hon. members have protested for many months against the failure of the bell in the corridor near my room. I enter an emphatic protest against the neglect to take any action during recent months.

The Hon. A. W. McNAMARA [6.11]: I support the protest made by the Hon. Mr. Mahony. I was present in the same convenience immediately preceding the previous division and the bell did not ring. I should not have been able to attend at the division had not the Whip advised me that the division bells were ringing.

The Hon. J. M. CONCANNON [6.12]: I was in the room of the Hon. Mr. Mahony, and his bell did not ring, nor did that in the lounge provided for the convenience of hon. members. I came along to inquire why the bells were ringing, and found they were ringing for a division.

The Hon. R. R. DOWNING (Minister of Justice and Vice-President of the Executive Council) [6.13]: This matter was raised on the adjournment the other night. I brought it under the notice of the Department of Public Works, which is the department responsible for the maintenance of the bells. It was the first time I was aware that the department was charged with the maintenance of the Parliamentary bell system. All I can add to what I have already said is that I will again take up the matter with the department and endeavour to have the bells put in working order so that this trouble will not occur again. I understand that one of the difficulties standing in the way of keeping the bells in order is the shortage of essential material required for their repair. I am advised that the department is doing its best to keep the bells in working order.

The Hon. Sir HENRY MANNING [6.14]: I thoroughly endorse the observations made by the Hon. Mr. Mahony. Unless the bells are rung in such a way as to give all hon. members an opportunity of being present, one of the fundamental matters in Parliamentary government is disregarded. May I add this to the observations made by the Minister, that it is not sufficient to see that

every effort has been made to get the bells to ring. The bells should ring If they do not ring Parliament does not perform its function.

The Hon. R. R. DOWNING: If there had been no shortage of material, this trouble would not have occurred!

The Hon. Sir HENRY MANNING [6.15]: Paragraph (g) (i) reads:

> By omitting from paragraph (a) of subsection one of section thirty-eight the words, "a legally-qualified medical practitioner", and by inserting in lieu thereof the words "the local authority";

The effect of the amendment is to substitute for the satisfaction of the legally qualified medical practitioner the satisfaction of the local authority. I should like to know from the Minister why this alteration is proposed.

The Hon. R. R. DOWNING [6.16]: The original provision was inserted in the Principal Act in 1902. At that time, I am informed, there was no such person as a qualified health officer, such as exists to-day. Now, health officers are required by law to have passed certain examinations, and under this measure they will be required, in addition, to pass another examination to satisfy the proposed board. It is considered that health officers are competent to decide whether premises have been properly fumigated. That is part of their necessary qualifications. In actual practice the medical officers act on the advice of local health inspectors in all cases concerning fumigation.

The Hon. Sir HENRY MANNING [6.17]: After hearing the tribute paid to medical practitioners by the Minister at an earlier stage, I am astonished to find that the legally qualified medical practitioner is to be replaced by someone else. I questioned the Minister on this matter because I wanted to know why it was that a local authority should be substituted for a legally qualified medical practitioner. My question, which was quite natural, was made after certain discussion had taken place. I am obliged to the Minister for his reply, the essence of which is that the substitution is made because the medical officer is a person who receives a scientific training and is specially brought up to a standard of training which enables him to advise the local authority whether disinfection has been effective. If the definition of "local authority" is examined it will be found that it is entirely in conflict, in one respect, with the statement made by the Minister. It reads:

> "Local authority" means council of a municipality or shire, and with respect to any police district outside a municipality or shire, means such member of the police force as may be appointed by the board under this Act to be a local authority.

I do not suppose the council itself undergoes special training. Within the metropolitan area, or within a municipality or shire, it is the council that deals with a particular matter. Outside, it is the constable of police. It is very strange—and I am not saying more than that at the present time—that a medical practitioner should be superseded in these matters by a local council in the one case and by an ordinary officer of police in the other although, according to the Minister, it is owing to the scientific education of the particular person that the change is contemplated.

The Hon. R. R. DOWNING [6.20]: In respect of shires and municipalities, it is well known that the local authority acts on the report of the health officer. Those who are associated with local government know that that is the practice. The health inspector makes a report and a recommendation to the council, which is considered by the local authorities. The only part of the State to which shires or municipalities do not extend is the area outside the towns in the Western Division, and in those cases the local police magistrate or C.P.S. exercises a general authority under numerous Acts. In the Central and Eastern Divisions, however, there are the municipalities and shires. It is sought to relieve the medical officer of duties that are in the nature of those performed by nuisance inspectors and health inspectors. If it is desired that such duties should continue to be performed by medical practitioners, there is no great objection.

The Hon. Sir NORMAN KATER [6.22]: I regret to say that I have forgotten the length of the information period in leprosy, but, assuming it is of some length, it is necessary to have a contact examined from time to time.

The Hon. R. R. DOWNING [6.24]: The amendment I propose to move is for that purpose. I move:

That in proposed new section 49A, after the word "order," second occurring, there be inserted the words "The power conferred by the foregoing provisions of this section may be exercised more than once in relation to the same person".

Amendment agreed to.

Captain the Hon. W. J. BRADLEY [6.25]: I desire to draw the Minister's attention to the very drastic powers under proposed new section 50A, which are now conferred on an officer. "An officer," as defined in this Act, includes an officer of the board, a servant of the local council, or a constable of police. That is a fairly wide range. Some, obviously, have qualifications, and some have not. To that group it is intended to give this power:

Where an officer certifies in writing to the local authority that any articles on specified premises within its area are verminous or likely to be verminous or dangerous or prejudicial to health by reason of having been used by any person infested with vermin, such local authority may, by order in writing, authorise the officer named in the order to enter such premises, by force if necessary, and to seize any articles therein which are verminous, filthy, dangerous or unwholesome or likely to endanger health or to promote infectious disease, and to disinfect or destroy such articles either on the premises or elsewhere.

It is well known that the articles and premises with which he has to deal are likely to be verminous, especially when they are in the poorer localities. The officer may enter the premises on the council's order, more or less as a matter of form, and, when he presents his report about things that are unwholesome or likely to endanger health, the person in charge, under this new section, has no redress whatever. In view of the wide nature of the powers proposed to be given, I suggest for the consideration of the Minister that power should be given at least to one of the medical officers, if the person concerned chooses to appeal to the medical officer of health to consider the situation that may arise should a dispute occur as to whether a thing is wholesome or not. There is no power of appeal given. If an officer is obstructed it is an offence, and he may go in by force if necessary.

The Hon. R. R. DOWNING: The bill makes certain provisions for compensation!

Captain the Hon. W. J. BRADLEY: I would suggest to the Minister the wisdom of allowing the person against whom the allegations are made to ask the medical officer of health to adjudicate in any dispute that may arise in this connection.

The Hon. R. R. DOWNING: [6.33]: It is not to be overlooked that the local authority must be satisfied that these things are in fact in that condition. If they are not in fact in that condition the local authority or the officer acting on behalf of the local authority would be left open to any action an aggrieved person might desire to take. The question of fact is whether or not these things are verminous, and advice from the departmental officers is to the effect that it would be extremely difficult in practice to put into the bill any such provision as the hon. member suggests.

Captain the Hon. W. J. BRADLEY [6.34]: I am sorry to hear that from the Minister, whose attention I draw to the fact that the homes most likely to be affected by this provision are those of the poor or the ill. There are not many places, for example, in Paddington or southern districts like Redfern or Waterloo or Botany, or districts still farther south like St. Peter's and Cook's River, where under wartime conditions and without help people have the opportunity of keeping their homes in the ideal state of cleanliness. The Minister says that the local authority has to be satisfied. As the bill stands the local authority requires no more than a statement in writing from any of those persons defined as an officer. We know that

in practice all the officer will have to do is to take in his report and automatically he will get an order to break into the premises and do the things set out in the bill. The persons who will suffer are those who have the least opportunity of protecting themselves and are least likely to bother about taking legal action against an officer who may have exceeded his duty. I doubt very much whether the question will ever arise, because all the officer has to do is to say that in his opinion, never mind whether he is right or wrong, articles are dangerous or prejudicial to health. When he gets his order to seize the articles he is entitled to destroy what he considers to be unwholesome—whatever that means. I doubt very much whether under war conditions this is an appropriate time to make such an enactment, when people cannot keep their belongings as clean as ordinarily they would. We know that some officers "dressed in a little brief authority" do throw their weight about. The community has a saying to-day that it is being "pushed about." Here is an opportunity for officers to break into people's homes by force and to push them and their belongings about.

The Hon. R. R. DOWNING [6.36]: This amendment is to meet such cases where houses have been entered in good faith and the tenant, on going into them, has found them to be verminous or filthy. There is a similar power in the bill in relation to other matters, and the officers concerned are responsible in every case to the local authority. Almost all the towns in New South Wales, and the whole of the eastern and central divisions, come under municipal councils and shires. These local governing bodies would take some care to see that this power was not exercised as suggested by the hon. member. Whilst everyone appreciates the serious shortage of housing, medical men would agree that when over-crowding is as severe as it is to-day there is a greater necessity than ever for the protection of public health.

The Hon. Sir HENRY MANNING [6.38]: The Minister has certainly given us a disquisition on the inadvisability of allowing verminous premises to remain in that condition, and also on the responsibility of officers of local authorities. But there is a matter raised here by the Hon. Captain Bradley that is of very considerable importance, a principle that runs counter to the personal freedom of the individual to remain on his own premises and to keep his belongings there, unless they are to be removed by some competent authority. None of us would object to the cleansing of such places and the removal of verminous things, by force, if necessary, but what we ask is that there shall be the ordinary natural and reasonable safeguards provided for the individual who is to be affected by the exercise of this power. The proposed alteration is that if an officer certifies that articles are verminous, or likely to be verminous or dangerous or prejudicial to health, then the local authorities may, by order in writing, authorise an entry into the premises by force and the seizure of articles and so on. As the Hon. Captain Bradley points out, "Officer" is an expression that has a very wide significance. It includes any medical officer of health, assistant medical officer of health, officer of the board or servant of a local authority, or any superintendent, inspector, sub-inspector or sergeant of police, or any constable authorised by the Commissioner of Police. What qualifications has a superintendent, inspector, sub-inspector, sergeant of police or constable to determine whether any articles on premises are verminous, or likely to be verminous or dangerous or prejudicial to health by reason of having been used by any person infested with vermin? There is an enormous extension of power in the interpretation clause. Much of what the Minister has said is no doubt perfectly sound, but, if there is to be any protection and any personal freedom assured to the individual in the exercise of these powers, surely the definition of "Officer" for that particular purpose must be cut down. That could

very easily be done by providing that instead of "Officer" meaning all the persons enumerated in the definition clause it means only any medical officer of health, assistant medical officer of health, or an officer authorised by the board or by a local authority, eliminating the words "or any superintendent, inspector, sub-inspector, or sergeant of police, or any constable specially authorised by the Commissioner of Police." What possible objection could there be to that?

The Hon. R. R. DOWNING: There would not be much objection to that. It is just a matter of the wording!

[*The Chairman left the chair at 6.44 p.m. The Committee resumed at 8.25 p.m.*]

The Hon. R. R. DOWNING [8.25]: I move:

That the Committee report progress and have leave to sit again at a later hour.

I should like to make a short explanation in regard to this matter. The delay in resuming has been occasioned by discussions in regard to certain provisions of the bill which, I think, will result in a substantial saving of time during the rest of the Committee stages. It is for the purpose of having amendments prepared that I ask the Committee to report progress and to ask leave to sit at a later hour.

Question resolved in the affirmative.

Progress reported.

PRICKLY-PEAR (AMENDMENT) BILL.

SECOND READING.

The Hon. W. E. DICKSON (Assistant Minister) [8.27]: I move:

That this bill be now read a second time.

The measure is a short one, and its main object is to make provision for the extension of the term of prickly pear leases to leases in perpetuity. Prickly pear leases are leases under the Prickly Pear Act. They comprise only lands which are heavily infested with pear, and the conditions under which the leases are granted provide for the destruction of the pear in stages spread over a number of years. There are 151 of these leases in existence, embracing a total area of 184,465 acres, mainly in the north-western portion of the State, but also in the Singleton and Scone districts.

Generally speaking, these leases have been granted for a period of twenty-one years, and under the existing provisions of the law there is a right to apply for extension up to a maximum period of fifty years from the date of granting of the lease. There is also a right to apply for conversion into one of the permanent tenures under the Crown Lands Consolidation Act, but this right cannot be exercised until the lessee has carried out the pear-clearing conditions which attach to his lease.

The experience of lessees over a number of years has been that financial institutions do not regard the existing tenure as a good security for the advancement of loans, and in the result lessees find it very difficult to finance the work of pear destruction. The provision for extension of the leases does not meet the difficulty, nor does the right of conversion into permanent tenure. The lessee's problem is to carry out the pear clearing conditions attached to his lease, and in order to do this he must have finance.

Upon a full investigation of the matter the Government has decided to provide a perpetual lease tenure. This course has already been adopted in Queensland, and it meets the expressed wishes of prickly-pear lessees in this State. The bill now before the House provides for the extension of the term of prickly-pear leases to leases in perpetuity with a rental of 2½ per cent. of the capital value. The capital value is subject to re-appraisement every period of ten years, and rentals will be adjusted in accordance with the values so determined. The provision for re-appraisement is necesary owing to uncertainty as to the part that cactoblastis and cochineal insects will play in destroying the pear. In some cases the insects have done remarkably good work, but in other cases the results have been disappointing. In view of this fluctuation it would be impossible to fix a rental for all time for any particluar lease. In one case the insects may clear the land of prickly-

pear without cost to the lessee. In another case the insects may be a failure and the lessee may have to spend a very considerable amount of money in treating the pear by poisoning or other methods requiring the employment of labour and the use of material.

It would not be equitable for the lessee, who has incurred heavy expenditure in the treatment of his area, to be required to pay the same rental as the more fortunate settler whose land has been cleared by the work of the insects. The bill provides that upon re-appraisement the lessee will retain the value of all pear-clearing work and other improvements carried out at his own expense. He will not, therefore, as a result of re-appraisement, be penalised for his industry. Where, however the pear destruction has been carried out by insects supplied by the Crown free of charge, the value will go to the Crown. The re-appraisement will be made by the local land board, which is the normal authority for carrying out this class of work, and the lessee will have a right of appeal to the Land and Valuation Court as in the case of re-appraisements under the Crown Lands Consolidation Act, 1913. The Minister for Lands will also have a right to contest an appraisement by reference to the court.

Provision has been made in the bill whereby upon the extension of leases to leases in perpetuity conditions may be inserted with the object of protecting the land from soil erosion and from overstocking. I am sure that hon. members will approve of these measures for the protection of the Crown estate. The question as to whether or not the applicant, together with the applicant's wife or husband, as the case may be, holds an area of land substantially in excess of home maintenance requirements, will be a factor for consideration in dealing with applications for extension to lease in perpetuity, and extension will be confined to so much of the lease as does not, together with other lands held, substantially exceed a home maintenance area.

The bill provides also for the subdivision of prickly-pear leases, and for effecting a small number of machinery amendments. These amendments authorise a greater use of local land boards in the administration of the Prickly-pear Acts, and extend the penal provisions relating to the sale or spreading of prickly-pear. I commend the measure as one deserving of the support of the House. The right of extension to a lease in perpetuity conferred by the bill is additional to the present right of conversion which will still be available to lessees.

The Hon. Sir NORMAN KATER [8.35]: So far as I have been able to judge in the time at my disposal, this measure appears to give effect to the principle that has been adopted by the Government and to which this House has assented, of allowing lessees who have leases of various tenures to convert them to perpetual leases. I can see no reason for opposing the measure, which is reasonable and satisfactory. As the Minister has pointed out, the cactoblastis cactorum does its work more efficiently in some areas than in others. It is only fair, therefore, that reappraisement should take place after a certain period. I commend the bill to the House.

The Hon. G. D. BASSETT [8.36]: I commend the Minister upon having brought down this measure, which has many good points. The lessees who took up their land about twenty years ago have done a wonderful job in tackling what appeared to be an impossible task. The cactoblastis was a heaven-sent cure. By increasing the water supply after having destroyed the prickly-pear, the settlers have contributed greatly to the importance of this class of land, and I should like to see them receive the best treatment possible. At one time thousands of pounds was spent in trying to get machines that would pulverise the pear. At the Royal Agricultural Show, on one occasion, I saw a machine that looked as if it would be useful for chopping up the hundreds of thousands of Japanese soldiers in Malaya.

Question resolved in the affirmative.

Bill read a second time and reported from Committee without amendment; report adopted.

With concurrence, bill read a third time.

PUBLIC HEALTH (AMENDMENT) BILL.

IN COMMITTEE.

(The Hon. W. C. CAMBRIDGE in the chair.)

Consideration resumed from an earlier hour.

Clause 5. The Principal Act is further amended—

. . . . . .

(j) by inserting in Part III next after section fifty the following new division:—

DIVISION 5.—*Public. Welfare.*

50A. (1) Where an officer certifies in writing to the local authority that any articles on specified premises within its area are verminous or likely to be verminous or dangerous or prejudical to health by reason of having been used by any person infested with vermin such local authority may by order in writing authorise the officer named in the order to enter such premises, by force if necessary, and to seize any articles therein which are verminous, filthy, dangerous or unwholesome or likely to endanger health or to promote infectious disease, and to disinfect or destroy such articles either on the premises or elsewhere.

The Hon. R. R. DOWNING [8.42]: I would suggest, Mr. Temporary-Chairman, that you leave the chair for a quarter of an hour. Amendments have been suggested but they are not completely drafted, and I expect they will be completed within that time.

[*The Temporary-Chairman left the chair at 8.45 p.m. The Committee resumed at 9.15 p.m.*]

The Hon. R. R. DOWNING (Minister of Justice and Vice-President of the Executive Council) [9.15]: I move:

That there be added to subsection (1) of proposed new section 50A the words "In the application of this subsection to and in respect of a local authority which is the council of a municipality or shire the word 'officer' means a medical officer of health, or an assistant medical officer of health or an officer of the Board or servant of the council authorised in that behalf by the Board or council as the case may be."

The Committee will recollect that prior to the dinner adjournment the Hon. Sir Henry Manning, referring to proposed new section 50A, stated that it was considered that the definition of "officer" in the bill was too extensive. The addition of the proposed words cuts down the definition of "officer" to mean only a medical officer of health or an assistant medical officer of health or an officer of the board or servant of the council authorised in that behalf by the board or council. While it may be thought that the words "servant of the council" might mean subordinate employees of a council, in fact every employee from the town clerk down is a "servant," during the adjournment, at which the Hon. Sir Henry Manning was present, the departmental officers gave an assurance that only the health inspector and, in certain cases, a person holding a position by virtue of special circumstances relating to a locality would be authorised by the local authority.

The word "servant" might technically include every employee of the council, and authorisations which have been given to councils and shires for the operation of this Act of 1902 have been restricted to "health officers or persons appointed as health officers at some time or other."

The Hon. Sir HENRY MANNING [9.23]: I have had the benefit of a consultation with the Minister and departmental officers, and I am perfectly satisfied, if I may say so, with the assurance given by those gentlemen and the Minister, and also with the restricted meaning given to "officer." I should like to make my acknowledgment to the Minister for his courtesy in affording that consultation to me.

Amendment agreed to.

Clause as amended agreed to.

Clause 6. (1) The Principal Act is further amended—

. . . . . .

(b) by inserting at the end of section fifty-five the following new subsections:—

(3) If any person occupies or uses or allows to be occupied or used for any purpose a building that has been erected upon any land in contravention of a notice under subsection one of this section he shall unless the measures referred to in the notice and

specified in the document deposited in the office of the local authority have been taken or the notice has been revoked by the Minister be liable to a penalty not exceeding two pounds for every day that such building is occupied or used.

It shall be a sufficient defence to proceedings for an offence against this subsection if the person charged proves to the satisfaction of the court that he was not aware of the fact that the notice had been published or served as aforesaid.

. . . . . .

(e) by inserting next after section fifty-eight the following new section:—

58A . . . . . .

(3) In this section the expression "cellar, vault or underground room" includes any room being part of a house if the floor of such room is more than three feet below the surface of the adjoining street or of the land adjoining or nearest to such room.

. . . . . .

The Hon. Sir HENRY MANNING [9.24]: I move:

That proposed new subsection (3) of section 55 be struck out.

It will be seen that this proposed new subsection is a provision which seeks to impose a penalty of £2 a day on a person merely occupying, from the time he first went into occupation, the premises which are described in the clause. The reason for the proposed omission is that the clause goes on to provide that the occupant of such premises may have served upon him a notice to quit those premises, and that is a very good thing, because he should be turned out. The premises should not be occupied. But it is another thing if the man is to be fined £2 a day from the day he first went into occupation of the premises. He should be served with the notice to quit. Secondly, there is another following clause which provides that if he does not quit the premises for a fortnight after receiving that notice, he should then be fined £2 a day. That also is a sound provision. But if we have also the preliminary provision for the fine of £2 as a penalty from the date of occupation, then after the lapse of fourteen days he will be fined £5 in all, and still have a notice of ejectment against him. That is one of the matters discussed, and after discussion the Minister and I were able to reach agreement on this matter by deleting the proposed subsection, and consequently I think I may say that I have the assent of the Minister for the amendment which I have moved.

The Hon. R. R. DOWNING [9.28]: What the hon. member has stated is a very lucid and clear explanation of the effect of his amendment. The position as will be readily understood is that the authorities will have power to take ejectment proceedings against the person who continues in occupation after proper notice has been given and a proper determination has been arrived at.

Amendment agreed to.

The Hon. R. R. DOWNING (Minister of Justice and Vice-President of the Executive Council) [9.30]: I move:

That in subclause (3) of proposed new section 58A the words "adjoining street or of the" be struck out and there be inserted in lieu thereof the words "street or".

If the amendment is agreed to I propose to move subsequently that there be added to subclause (3) the words "and which has no direct access to the outer air otherwise than at a level of 3 feet above the floor thereof." The object of the amendment I have moved is to clarify the definition of "cellar." I think the two amendments will remove the difficulties that were referred to at the second reading stage by the Hon. Mr. Robson and the Hon. Captain Bradley. If they are agreed to the proposed new subsection will read:

(3) In this section the expression "cellar, or underground room" includes any room being part of a house if the floor of such room is more than three feet below the surface of the street or the land adjoining or nearest to such room and which has no direct access to the outer air otherwise than at a level of three feet above the floor thereof.

Captain the Hon. W. J. BRADLEY [9.32]: Does the Minister think that will meet the position? For example, on the other side of Macquarie-street there is a building which has stone steps leading to a basement. The basement is

furnished, and it is used by a masseuse. The definition of "house" is a very wide one. It includes a dwelling of any kind. There is a building in Hunter-street, near Pitt-street, which has a well-ventilated basement in which some medical business is conducted. That, too, is below street level. On the harbour side of New South Head road, Double Bay, there are flats where the land slopes down very steeply to the level of Rushcutters Bay. Many of the rooms in the buildings there are two stories below street level of New South Head road. In Bellevue Hill, on the other side of that road, there are all sorts of bends, curves and slopes, and many of the buildings are well below road level. Most of the illustrations I have given seem to apply to proposed new subsection (3).

The Hon. R. R. DOWNING: Are the rooms referred to by the hon. member living rooms?

Captain the Hon. W. J. BRADLEY: No.

The Hon. R. R. DOWNING: This would not apply unless they were!

Captain the Hon. W. J. BRADLEY: Section 1 of proposed new section 58A reads:

> No person shall furnish, let or occupy or permit or suffer to be occupied as a dwelling any cellar, vault or underground room.

The basement of the building in Macquarie-street to which I referred is used for business purposes. In the flats, the basements are used as dwellings.

The Hon. Sir HENRY MANNING: Under the bill as it stands the occupation of rooms more than three feet below the level of the street will be an offence!

The Hon. R. R. DOWNING: If they are used as a dwelling!

The Hon. Sir HENRY MANNING [9.42]: I have had a talk with the Minister about the proposed amendment, and he informs me that he desires to keep faith with the Hon. Mr. Clayton, who has had a conversation with him. I have suggested to the Minister that probably there has been some confusion about the matter, and that it might be made in accordance with the Hon. Mr. Clayton's wish for the clause to remain as it is, with the addition of the words that the Minister has proposed.

Amendment, by leave, withdrawn.

Captain the Hon. W. J. BRADLEY [9.43]: I should like to draw the attention of the Minister to subsection (2) of proposed new section 58A. This refers to a place being used as a living room or as a bedroom. I suppose that a place furnished with sideboard, table and chairs, where people could have their meals, would be a living room. If the floor in that room is more than 3 feet below the surface of the adjoining street or land, it is caught by the section. Until this is clearly understood, and the officers have made some inspection to find out how this provision works, I hope the Minister will see that no hardship is inflicted on anybody. This is intended to be applied where persons are living for some length of time in a place that is unhealthy, either because they do not get fresh air, or because of the dampness of the place. I can visualise places that are more than 3 feet below the adjoining street or land that may be the equivalent of the dining room, and I do not think it is intended to catch those. Even with the clause amended as the Minister proposes, it will need sympathetic administration to see how it works out.

The Hon. R. R. DOWNING [9.45]: I move:

> That there be added to subsection (3) of proposed new section 58A, the following words: "and such room has no direct access to the outer air otherwise than at a level of more than 3 feet above the floor thereof."

I have spoken to the Parliamentary Draftsman and he does not disagree with the Hon. Sir Henry Manning's preference for the original words. In regard to the matter raised by the Hon. Captain Bradley, I can give him the assurance that the clause is intended to apply only to such places as are used as living rooms or bedrooms, and if there is any doubt as to the definition being too extensive, after investigation by officers, I undertake to recommit the bill

prior to the third-reading stage and have an alteration made. Moreover, if the hon. member has any misgivings in connection with a particular case to which this might apply, I should be pleased if he would let me know so that consideration can be given to the definition before the bill is read a third time.

The Hon. Sir NORMAN KATER [9.46]: Will the Minister make clear whether his definition will exclude a room that is in juxtaposition to the street, and 6 feet below the level of the street, but on account of the slope of the land is completely open on one, two or three sides to the air?

The Hon. R. R. DOWNING: I take it that is excluded from the definition of a cellar, but if there is any doubt about it the matter can be clarified!

Amendment agreed to.

Clause 8. (Nuisances to be dealt with summarily.)

Captain the Hon. W. J. BRADLEY [9.48]: Will the Minister consider a suggestion I made at an earlier stage in connection with paragraphs (b) and (g) of proposed new section 64. We find in the public streets to-day an offensive nuisance caused by cars with gas producers emitting in considerable quantities a gas or smoke or effluvia that, to say the least, is offensive.

The Hon. Sir NORMAN KATER: It is carbon monoxide—a deadly poison!

Captain the Hon. W. J. BRADLEY: This is a growing menace in our streets. Quite recently my attention was drawn to a commercial vehicle being loaded. Some ten minutes or more before the loading was completed, the driver started up the gas-producer, right in a very busy thoroughfare. A number of school children waiting for buses and a number of people waiting to go to town, had to put up with this gas emitted into the public thoroughfare for ten or fifteen minutes.

Another matter that might be considered is the practice of smoking in public restaurants. I am not a teetotaller nor a non-smoker, but there is a time and place for everything. The habit of smoking in public dining rooms is growing. There should be some degree of cleanliness, and people who are dining should not be subjected to smoke emitted from the nostrils of other people. Perhaps, if it is thought necessary, a certain portion of the dining room could be set aside for smokers, but some provision should be made for diners who want to eat under clean conditions and in peace and quietness.

The Hon. R. R. DOWNING (Minister of Justice and Vice-President of the Executive Council) [9.51]: It is very necessary that the public should be protected in respect of both the matters mentioned by the hon. member. So far as fumes emitted by gas-producers and motor cars are concerned, the Department of Road Transport and Tramways regulates the construction of motor vehicles. I have had personal experience with gas-producers over a long period. Certain types of gas-producers are dangerous, and some have been prohibited by the Department of Road Transport and Tramways because of the danger of gas. However, instead of giving authority to councils, that matter would probably be better dealt with by the Department of Road Transport and Tramways. That department has the right to prescribe the kind of equipment that may be used on a motor vehicle, which has to be submitted to the department before registration. Section 65 of the Public Health Act deals with nuisances, which are dealt with by the local authorities. There is much to be said for the hon. member's statement that gas-producers are a menace to health where they are used without regard to public safety in public thoroughfares, but I think it would be more appropriate for the matter to be dealt with by the authority controlling the registration of motor vehicles.

With regard to the question of smoking in restaurants, there is a provision in operation to-day designed to prevent smoking in butchers' shops, and I think it is possible for the matter referred to by the hon. member to be dealt with

under the Pure Food Act, which deals mainly with the purity of food. Both the matters mentioned by the hon. member are very worthy of consideration, but the hon. member will probably agree that if he had a gas-producer on his vehicle he would not like to have the local authorities dealing with the matter in addition to the Department of Road Transport and Tramways.

Captain the Hon. W. J. BRADLEY [9.55]: Whilst I agree with the Minister on the question of smoking in restaurants, if it is contemplated that officers of the Health Department will deal with the matter, there is no reason why regulations should not be promulgated and enforced in that connection. With regard to the question of public vehicles, however, all that the Department of Road Transport and Tramways does is to approve of the make-up of the vehicle when it is submitted for registration. Once it goes on the road the officers of the Department of Road Transport and Tramways have nothing to do with the emission of gas from the producer.

The Hon. R. R. DOWNING: Men are prosecuted every day for having faulty exhausts. They are prosecuted by the police, not by the Department of Road Transport and Tramways!

Captain the Hon. W. J. BRADLEY: If that matter is provided for at the present time, then it needs much greater policing. It may be that the officers are liberal in dealing with the matter owing to the difficulty motorists have of obtaining garages. If a motorcyclist is proceeding along the road with his exhaust roaring the traffic policeman is after him fairly quickly, but I have not read of any prosecutions with regard to the exhaust of motor cars, whether operated by gas producers or petrol. If there is power to deal with the matter at the present time, then it is rather strange that prosecutions have not taken place. Quite recently a young man in his early 30's was given a job to take a truck to the country. He had hundreds of miles to travel, and when going through one of the districts it was noticed that the exhaust was emitting gas. When the driver reached the country town he put the truck into an open garage, and the following morning, after he had gone into the garage to start up the vehicle, he was found dead in the truck. An inquest was held and he was found to have died from the deadly effects of the poison. That unfortunate man may have been standing in the garage while he started up the producer. The windows and doors of the garage were wide open, but the effects of the gas are so subtle that he would have no warning, and he was found dead a few minutes afterwards. I think it is just as important to deal with a vehicle which has such a deadly effect as to deal with the smoke or dust nuisance, and power should be given to the local authority to take action in such cases.

The Hon. Sir NORMAN KATER [10.0 p.m.]: What the Hon. Captain Bradley has said with regard to gas-producer vehicles would apply also to motor cars. As I said by interjection, the exhaust of a motor car gives out carbon dioxide, which is a deadly poison. If a motor car is run into a closed garage this can be lethal, and people have been poisoned by it. Mixed with air, there is a certain amount of immunity. If what the Hon. Captain Bradley suggests were followed out there would be no more motor cars on the streets at all, because the exhaust from every motor car is poisonous, and no motor car could be registered. Carbon dioxide is a deadly gas and if one gets too close to it one will be poisoned; but we cannot prevent a motor car from emitting this poisonous gas.

The Hon. R. R. DOWNING [10.2]: I have read of the cases mentioned by the Hon. Captain Bradley. In some cases the position of the gas-producer has added to the risk mentioned by the Hon. Sir Norman Kater. It would be better that the authority suggested should be given to a body such as the Transport Department or the traffic branch of the Police Department, where they could check over these things. If they have not the power, it could be

extended for that purpose. There have been cases, I understand, where a gas-producer has been near the cabin of a lorry, and the unit has thrown out poisonous gas in clouds. Where it is thrown out of the exhaust of a motor car into the air its effect is neutralised very quickly. The matter the hon. member has raised would be much better referred for consideration to some competent authority which is concerned with the structure of a motor; an authority such as the traffic branch of the Police Department, or the Transport Department.

Captain the Hon. W. J. BRADLEY: I shall be glad if the Minister will put those views before the authorities concerned!

The Hon. R. R. DOWNING: I shall do that.

Clause agreed to.

Clause 9. The Principal Act is further amended by inserting next after section seventy-one the following new Part:

PART VIIA.

Use of Hydrocyanic Acid and Other Dangerous Substances.

. . . . . .

71B (1) No person other than a person licensed in that behalf by the board shall use any dangerous substance for the purpose of fumigating any building, vessel or other enclosed space.

. . . . . .

The Hon. R. R. DOWNING [10.5]: I move:

That there be added to subsection (1) of proposed new section 71B the words, "and any such fumigation shall be carried out under the personal supervision of a person so licensed."

This is the matter which was mentioned by the Hon. Sir Henry Manning, and I have since discussed with him the licensing provisions in respect of persons who use these deadly fumes for the purpose of fumigating. The amendment has the effect that the actual operation must be carried out under the personal supervision of a person who is the licensee. That will operate in much the same way as a provision in respect of electrical contractors is operating to-day—the work must be carried out either by a person who has been licensed, or under the personal supervision of a person who has been licensed. That will so improve the clause that it will obviate such a case as that where a person licensed may commence an operation and then go away, and leave it to some youthful or inexperienced person to complete, which might result in a repetition of some of those very serious accidents which have happened as the result of the unskilful use of these highly-dangerous fumes.

Amendment agreed to.

Clause as amended agreed to.

Clause 11. The Principal Act is further amended—

. . . . . .

(b) by inserting next after subsection one of section one hundred and seven the following new subsection:—

(1A) In any proceedings for the recovery of any penalty imposed by this Act or by any regulations or by-laws made thereunder or in respect of any offence against this Act the information or complaint may (unless otherwise expressly provided) be laid or made by the Board or a local authority or by an officer authorised in that behalf by the Board or a local authority either generally or in any particular case.

. . . . . .

The Hon. R. R. DOWNING [10.8]: I move:

That in proposed new subsection (1A) the words "either generally or" be struck out.

The proposed new subsection deals with the recovery of penalties. As it is proposed to amend it it will provide that before proceedings can be taken by an officer of the board they must be approved by the board, and before proceedings can be taken by a local authority they shall be approved of by the local authority—the municipal council or the shire council, as the case may be. That removes the cause of the criticism which the Hon. Sir Henry Manning directed to this clause previously—that it might result in an indiscriminate prosecution being launched by a person who has a general authority.

The Hon. Sir HENRY MANNING [10.9]: I appreciate the fact that the Minister has afforded me the opportunity of meeting him in consultation and of putting before him the suggestion which has been adopted. It is a distinct improvement, and I am very glad that the Minister and I see eye to eye on this matter.

Amendment agreed to.

Clause as amended agreed to.

Postponed clause 2 (Interpretation).

The Hon. R. R. DOWNING (Minister of Justice and Vice-President of the Executive Council) [10.10]: The Hon. Captain Bradley and I discussed this matter with the legal officers. The definition of "offensive matter" contained in clause 2 is included for the purpose of meeting the words in the schedule to the 1915 amending Act, which gives to the Board of Health power to recommend regulations under section 20, in respect of any matters contained in Part I of the schedule. The regulations contained in Part IV of the Act provide that regulations and ordinances shall not be made unless the board first gives its approval. In other words, the Board of Health must first approve of regulations before they can be made by the Governor.

The Hon. Captain Bradley was disturbed at the very wide definition of "offensive matter," but I think he will be satisfied, since the matter has been discussed with the President of the Board of Health. I might mention that the words "offensive matter" occur only in the schedule of the 1921 Act. The board makes exhaustive enquiries before it reaches a determination to recommend regulations to the Governor. I hope this explanation will remove the fears entertained by the hon. member in regard to the definition of offensive matter.

Captain the Hon. W. J. BRADLEY [10.12]: I very much appreciate the courtesy of the Minister and of his officers in explaining this matter. The definition of offensive matter obviously is very wide. The schedule to the 1915 Act relates to the keeping of premises free from offensive or unwholesome matter and the suppression of nuisances arising therefrom. I am satisfied with the definition.

Postponed clause agreed to.

Bill reported with amendments.

Motion (by the Hon. W. E. Dickson) proposed:

That the report be adopted.

Motion (by the Hon. R. R. Downing) agreed to:

That the words "the report be adopted" be struck out, and there be inserted in lieu thereof the words "the bill be recommitted for the further consideration of clause 5."

IN COMMITTEE (RECOMMITTAL).

Recommitted clause 5. The Principal Act is further amended—

. . . . . .

(c) by inserting at the commencement of Division 3 of Part III the following new section:—

32A. (1) A medical officer of health or a legally qualified medical practitioner authorised either generally or in any particular case in that behalf by the President may by order in writing direct that the person named therein (being a person suffering from an infectious disease) be removed to the hospital named in the order (being a hospital available for the reception and treatment of persons suffering from the infectious disease).

The Hon. R. R. DOWNING [10.14] I move:

That in subsection (1) of proposed new section 32A the words "either generally or" be struck out.

I discussed this matter with the Hon. Sir Henry Manning. The proposed amendment, while it does not wholly conform to his point of view or to mine, represents a reasonable compromise. The amendment means that officers of the Board of Health or a legally qualified medical practitioner, must be authorised by the Board of Health. This should overcome many of the difficulties referred to by the Hon. Sir Henry Manning.

The Hon. Sir HENRY MANNING [10.15]: I was unable to carry the amendments that I suggested in this clause. They were framed by me having regard to the personal safety of persons whom

it is proposed to remove from their residences to hospital. They required that accommodation shall be provided for such persons, at hospitals, before removal takes place. I suggested afterwards to the Minister that probably some measure of safety might be secured if instead of allowing such an order to be made by a medical practitioner having a general authority and no responsibility to the executive, it should be confined to cases where a specific authority was given by the president of the board. For that small measure of safety to which the Minister has agreed, I desire to express my personal gratitude.

Amendment agreed to.

Recommitted clause, as amended, agreed to.

Bill reported with a further amendment; report adopted.

House adjourned at 10.21 p.m.

Legislative Assembly.

Wednesday, 29 March, 1944.

[*Continuation of Tuesday's Sitting.*]

Government Railways (Rates) Amendment Bill (second reading)—Public Trusts (Amendment) Bill (second reading)—Kosciusko State Park Bill (second reading)—The St. Mark's Darling Point (Church Lands) Bill—Parliamentary Elections (War Time) Bill—Crown Employees Appeal Board Bill (second reading)—Special Adjournment—Adjournment (Coalminers' Pensions).

The House resumed at 11 a.m.

GOVERNMENT RAILWAYS (RATES) AMENDMENT BILL.

SECOND READING.

Mr. O'SULLIVAN (Paddington), Minister for Transport [11.0]: I move:

That this bill be now read a second time.

As I pointed out at the introductory stage, the necessity for this bill has arisen following a judgment given in a Supreme Court action in Equity challenging the validity of certain railway by-laws authorising the allowance of rebates of freight in respect of wheat consigned to flour mills, and flour and other mill products forwarded by rail from such mills to the seaboard. My predecessor in office, the hon. member for Tenterfield, will be quite familiar with the history of the flour millers' rebates, and the facts leading up to the promulgation of the present by-laws, but I feel that it would help hon. members generally to understand the provisions of the bill if I outlined that history as briefly as possible for their information. Stated in simple language, the basis of the rebate payment is the difference between the sum of the freight charge for wheat received into the mill and flour despatched from the mill, and the through rate for the total mileage the wheat and flour is carried by rail, plus a break-of-journey charge of 1s. Millers' rebates were originally introduced in October, 1887, with the object of assisting in the development of country flour-milling.

In the following year, further to assist the establishment of country mills, the rate on grain and flour on the down journey, that is, away from Sydney, was increased by 20 per cent., so that the country miller had not only the advantage of the rebate, but also a distinct freight advantage to permit him to operate in competition with metropolitan millers. In 1890, a further reduction was made in the freight rates on mill products carried to the seaboard, and conditions for country millers, so far as railway freight rates were concerned, were improved from time to time until 1923 when, as a result of very strong representations from metropolitan millers, the higher rate for wheat and flour on the down journey was eliminated, and the same rate applied to the carriage of wheat and mill products, irrespective of the direction in which they were hauled. This was the first attempt to restrict the concessions granted to country millers, and was followed by a very strong effort, on the part of metropolitan milling interests, to eliminate the whole of the favourable conditions granted to country millers.