Legislative Assembly

Wednesday, 18 November 1981

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

EDUCATION

Four-year-olds: Petition

MR PEARCE (Gosnells) [2.16 p.m.]: I present a petition from 47 citizens of Western Australia protesting in the same terms as many others about the Government's planned cuts in pre-school education for four-year-old children. I have certified that it conforms with the Standing Orders of the Legislative Assembly.

The SPEAKER: I direct that the petition be brought to the Table of the House.

(See petition No. 125.)

BILLS (2): INTRODUCTION AND FIRST READING

1. Diamond (Ashton Joint Venture) Agreement Bill.
2. Police Amendment Bill.

Bills introduced, on motions by Mr P. V. Jones (Minister for Resources Development), and read a first time.

BREAD BILL

Introduction and First Reading

Bill introduced, on motion by Mr O'Connor (Minister for Labour and Industry), and read a first time.

Second Reading

MR O'CONNOR (Mt. Lawley—Minister for Labour and Industry) [2.22 p.m.]: I move—

That the Bill be now read a second time.

This Bill is introduced to repeal the existing Bread Act and replace it with new legislation to take account of changes which have occurred within the industry and by the introduction of other legislation since the Act was first introduced in 1903.

The respective representatives of both the employers and employees engaged in the industry have been consulted and in the main the legislation reflects the recommendations of both groups. I might say, however, in both areas there are some difficulties in connection with this. As a consequence, major changes are proposed which I will now explain. Reference to bread standards has been removed. The standards are adequately covered in the food and drug regulations under the Health Act and it is unnecessary to repeat those standards in this Act.

The appointment of inspectors to police the Act is to be confined to the Department of Labour and Industry.

At present, approval to prosecute is open, and inspectors may be appointed under the Local Government Act, the Health Act, and the Factories and Shops Act.

The proposal will not preclude health inspectors from local authorities or the Health Department exercising their functions.

The hours of baking are now controlled by the provisons of an industrial award. This award was made prior to an Industrial Arbitration Act amendment prohibiting the Industrial Commission from controlling the operating hours of industry except in certain circumstances.

Within a 45-kilometre radius from the Perth General Post Office, bread may be baked only within specified hours between Monday and Friday. These hours are seen as being restrictive to enterprising business and not in the best interests of consumers.

It is proposed, therefore, that the baking hours will be extended to provide that bread may be baked at any time between the hours of one minute past midnight on the Monday morning and 12 noon on Saturdays. No baking will be permited on Sundays in the metropolitan area.

In other areas—that is, those outside the 45-kilometre radius previously referred to—bread may be baked at any time between the hours of one o'clock on Monday morning and 12 noon on Saturday and between 5.00 a.m. and 12 noon on Sundays.

The provision, whereby in unforeseen or exceptional circumstances the Minister may vary baking hours, is to be retained.

Varying provisions apply regarding the delivery of bread. In the metropolitan area and in Kalgoorlie, bread is not permitted to be delivered before 6.00 a.m. on Mondays and Fridays; before 7.00 a.m. on Tuesdays, Wednesdays, or Thursdays; before 5.00 a.m. on Saturdays or on any Sunday or bakers' holiday. In other areas delivery is not permitted before 5.00 a.m. on any day or on any Sunday or bakers' holiday.

The restrictions appear to have been introduced, on health grounds, to prevent bread being left on doorsteps. This being the case, there is now sufficient control under the health by-laws

to cover this aspect. Changes have occurred also in that it has been estimated that approximately 80 per cent of deliveries are now made by manufacturers to retailers.

As a consequence, it is proposed to lift all delivery restrictions other than to provide that bread cannot be delivered before 5.00 a.m. and that there will be no deliveries on Sundays. Reference to "bakers' holiday" has been deleted as these holidays are subject to industrial awards.

Attention has been drawn to the unsatisfactory situation which developed within the industry regarding return of bread by retailers to manufacturers. That situation appears to have been resolved. The provision whereby bread cannot be returned is therefore to be retained.

Loaf sizes are included in the present Act. It is proposed that under the new Act, loaf sizes and descriptions will be prescribed in the regulations.

The existing sizes are—

Ordinary bread weighing 450 grams, 900 grams, 1 800 grams
Milk bread weighing 680 grams
Vienna bread weighing 340 grams
Dietetic bread weighing 225 grams.

The major change proposed is to allow bread to be baked in all the aforementioned sizes. However, milk bread will be restricted to the 680 gram size to ensure that consumers can readily identify this type of bread. By the way, it will also allow hot bread shops to continue to operate as they do at the moment.

The inclusion of loaf sizes in regulations will allow for more flexibility to determine sizes should the need arise.

The existing Act makes provision for polls to be conducted among bakers in country areas to determine baking hours. The provisions are no longer used and therefore have not been included in the Bill.

The requirement for the licensing of bakehouses is retained. No licensing fee, presently $1.20 per annum, will be charged as bakehouses are required to be registered under the Factories and Shops Act.

Penalties under the existing Act were last increased in 1966. Provision has been made in the Bill for substantial increases in penalties and these range from a general penalty of $400 to a maximum of $1 000 for offences against some sections of the Act.

As mentioned in my opening remarks, this Bill reflects in the main changes sought by the industry.

It removes provisions which are no longer required and will improve the administration of the Act.

I commend the Bill to the House.

Debate adjourned, on motion by Mr Pearce.

COUNTRY TOWNS SEWERAGE AMENDMENT BILL

Second Reading

MR MENSAROS (Floreat—Minister for Water Resources) [2.29 p.m.]: I move—

That the Bill be now read a second time.

The Country Towns Sewerage Act fixes a maximum rate in the dollar on gross rental value at 15c or 2½c in the dollar on the unimproved value of rated land. The maximum rate in the dollar has not been increased since the Act came into operation in 1948.

The Bill proposes to amend the Act to provide an increase in the maximum rate from 15c to 20c in the dollar on gross rental value or from 2½c to 3½c in the dollar where the value of the land rated is on the basis of the unimproved value.

In the Country Towns Sewerage Act "Gross Rental Value" means the gross rental value of the land, and in force under the Valuation of Land Act. It will be several years before all towns have been revalued on the gross rental value basis. Therefore, the former estimated net annual value will continue to apply to those towns which have not been revalued since 1 July 1980, until revaluation is effected.

Members' attention is drawn to section 5 of the Valuation of Land Act which provides that—

> (1) Until a superseding valuation comes into force under this Act, a rating or taxing authority—
>
> (b) shall, in respect of the financial or rating year commencing on the 1st July, 1980 . . . and all subsequent financial or rating years, use any valuation used by the rating or taxing authority for the assessment of any rate or tax in respect of the financial or rating year ending on the 30th June, 1979 . . .

All current country town sewerage schemes are rated on either the new gross rental value or values based on the former estimated net annual value—the latter being 60 per cent of the former *ceteris paribus*.

Although no authority uses the unimproved value for sewerage rating purposes, there are still some country towns without sewerage schemes

where unimproved value is used. Because schemes can be constructed and operated by either the Government or a local authority, this option should be retained. A local authority could elect to use the unimproved value base.

Gross rental values are about 60 per cent higher than estimated net annual values. Therefore, in order to maintain equity between towns which have been revalued since 1 July 1980, and those which are still valued on the former estimated net annual value basis, a rate of up to 9c has been applied to the former, while up to 15c has been determined for the latter.

When assessing the rate to be applied, each scheme stands alone. However, the existing maximum rate of 15c in the dollar when applied to towns which have not been revalued or 9c for those towns which have been revalued, is not sufficient to cover costs or recover accumulated losses on some of the schemes.

Country towns sewerage schemes had an estimated loss of $1.8 million for the year ended 30 June 1981. The accumulated loss on all schemes to 30 June 1981 is approximately $14 million. These amounts could easily further increase if the cent rates in the dollar were to remain pegged to 15c and 2½c respectively, hence my request to the House to avoid such further increases.

I commend the Bill to the House.

Debate adjourned, on motion by Mr Carr.

CONSUMER AFFAIRS AMENDMENT BILL

Second Reading

MR O'CONNOR (Mt. Lawley—Minister for Consumer Affairs) [2.34 p.m.]: I move—

That the Bill be now read a second time.

The Consumer Affairs Council, together with the bureau, has now operated for a period of approximately 10 years.

In the early stages of development of consumer protection in Western Australia, the council provided an essential advisory service to the Minister on matters affecting the interests of consumers generally.

Consumer legislation at that time was included in a diversity of Acts at both Federal and State levels and was fairly restricted. In 10 years there have been further developments in the field of consumer affairs. As an example, there has been established in Western Australia a Small Claims Tribunal; and new legislation in the form of the Unsolicited Goods and Services Act and Pyramid Sales Schemes Act. The Consumer Affairs Council has played its part in these developments.

In line with previously stated intentions, the Government is undertaking a review of all boards, committees, councils, and similar bodies, and the necessity to retain the Consumer Affairs Council was examined.

When one considers the individual bodies in existence one realises it is easy to say that not one should be eliminated, but in the government sphere there are many bodies for which consumers in the long term must pay in one way or another. We on this side of the House believe we ought to consider from time to time how we can reduce costs of Government functions in order that consumers are not adversely affected in the long term. The conclusion reached was to the effect that, while in the early stages of the development of consumer affairs in Western Australia the council carried out an important and useful role, that role has now been reduced.

Mr I. F. Taylor: It wasn't under the Tonkin Government.

Mr O'CONNOR: It may not have been under the Tonkin Government, but the role has now been reduced.

One of the functions of the council is to advise the Minister on such matters affecting the interests of consumers as he may refer to it. This function has now been bypassed as additional expertise has been built up within the bureau. As an example, the beer price inquiry was conducted by the deputy commissioner without reference to the council. An examination of matters referred to me by council reveals that over the past three years, 10 items have been referred for consideration. The cost to consumers has been about $100 000 and I believe the people we have on the council are good people and have done the best they can in their work. However, other bodies cover most of the functions involved.

Another function of the council has been the dissemination of information to consumers. This function again was taken over by the appointment of a full-time education officer in 1974 to the bureau.

These remarks are not to say that the functions of the council are not important. In fact, the Bill proposes that the council's functions will be included as part of the duties of the commissioner who also will be responsible for the submission of the annual report.

In concluding my remarks on the proposal to abolish the council, I point out that there are consumer organisations which can submit matters to the commissioner for consideration.

The offer by the council members not to accept fees is appreciated. However, it must be borne in mind that the fees are only a part of the total costs incurred in running the council, which is estimated at $30 000 a year.

The members of the consumer products safety committee are not presently covered by the provisions in the Act concerning secrecy and personal liability. It is considered desirable that those provisions should apply to members in the same manner as that applying to officers employed in the bureau.

Section 25A contains a definition of the word "published". In its present form this definition is considered unduly restrictive as it is necessary to prove not only publication, but also printing in Western Australia. Statements could well be published infringing the sections which are printed elsewhere.

Other minor amendments are also included in the Bill.

I commend the Bill to the House.

Debate adjourned, on motion by Mr Carr.

DIAMOND (ASHTON JOINT VENTURE) AGREEMENT BILL

Second Reading

MR P. V. JONES (Narrogin—Minister for Resources Development) [2.40 p.m.]: I move—

That the Bill be now read a second time.

This Bill places before the House the first agreement relating to a diamond mining industry in Western Australia.

The Ashton Joint Venture had its origins in the Kalumburu Joint Venture, which was formed in 1972 to conduct diamond exploration in the Kimberley region of Western Australia.

Original members of the Kalumburu Joint Venture were—

Tanganyika Holdings Ltd, Australian Branch
(a subsidiary of the UK registered company Tanks Consolidated Investments Limited)
A.O. (Australia) Pty Ltd
Northern Mining Corporation NL
Jennings Mining Ltd
Sibeka Societe D'enterprise Et D'Investissements S.A.

CRA Limited—formerly Conzinc Riotinto of Australia Limited—became involved in the exploration exercise in February 1976, with the resultant farm-in transforming the Kalumburu Joint Venture to the Ashton Joint Venture.

The joint venture took its name from the Ashton Range in the Kimberley. By January 1977, CRA had earned a 35 per cent interest in the project and its wholly owned subsidiary, CRA Exploration Pty. Limited, became manager.

Further structural changes have occurred since then, and the Ashton Joint Venture is now owned by the following companies—

		per cent
Northern Mining Corporation NL		5.0
Ashton Mining Group		38.2
Ashton Mining Limited	24.2	
Tanaust Proprietary Limited	9.1	
A.O. (Australia) Pty. Limited	4.9	
CRA Exploration Pty. Limited		56.8

The discovery of diamondiferous pipes at Ellendale, alluvial gravels in Smoke Creek, and the AK-1 pipe at Argyle are the result of a long-term exploration strategy by the joint venturer extending over some nine years.

It has involved some $15 million expenditure on basic exploration—not including evaluation, development, and market study costs at Ellendale and Argyle.

It has required the adaptation and development of field and laboratory techniques suitable for exploration in the Kimberley, acceptance of the financial risks of grass roots exploration for a new commodity in a new continent, and the training of large numbers of people, both geologists and technicians, in new skills.

The search for diamonds has resulted in the discovery and elimination of some 90 other kimberlites which have proven either totally barren of diamond, too small, or to have negligible diamond content.

From commencement of exploration in 1972 until early 1976, when the first kimberlites were discovered in the north and south Kimberley, only dispersed indicator minerals and a few small diamonds had been located in stream gravels in the 300 000 km^2 Kimberley region. Exploration continued, however, and the Ellendale pipe province was defined in early 1977, the first kimberlite dykes in the east Kimberley in mid-1977, the Fitzroy province to the south of Ellendale in 1978, and Smoke Creek and AK-1 in 1979.

The selection of the Kimberley region in 1971-72 as prospective for diamondiferous kimberlite deposits was largely by anology with southern Africa. The major geological structures in the

Kimberley were similar to the diamond bearing areas of South Africa.

The recovery of about nine small diamonds from the Lennard River also had been reported by an earlier exploration company in 1969, but follow-up sampling had not confirmed them. Aside from these, the only confirmed occurrence of diamond in Western Australia was gravels at Nullagine, some 800 km from the Kimberley.

Although there had been sporadic efforts at diamond exploration in Australia in the past, mainly centering on the known alluvial diamond occurrences of eastern Australia and Nullagine, only the local exploration subsidiary of De Beers had carried out consistent long-term scale, modern, prospecting surveys of Australia, including the Kimberley. Consequently, it was necessary for the joint venture to develop its own expertise and techniques that were applicable to diamond exploration in the region.

In September 1979 the Argyle prospect was discovered south of Lake Argyle in the east Kimberley, 600 kilometres from Ellendale and about 2 200 kilometres from Perth.

The discovery of diamonds during stream sampling of Smoke Creek led to the location of a kimberlite pipe and the delineation of alluvial diamond deposits, extending downstream from the pipe along the course of Smoke Creek.

The diamond pipe—designated AK-1—has a surface area of 45 hectares. Diamonds have been recovered in stream gravels along Smoke Creek up to 30 kilometres from the pipe.

Evaluation of the Smoke Creek alluvial deposits resumed following the wet season in March 1980. However, work on the pipe did not resume until after 25 September 1980 when, following an agreement with the recognised Aboriginal custodians of Argyle Aboriginal sites, the Government gave its consent to the joint venturers for work to proceed on its tenements covering the Argyle prospect.

General discussions regarding the negotiating of an agreement between the joint venturers and the Government were commenced early in 1981 and the Bill before the House is the culmination of detailed discussions and investigations undertaken over a long period.

It is a Bill for an Act—

> to ratify an executed agreement between the State of Western Australia and CRA Exploration Pty Limited, Ashton Mining Limited, Tanaust Proprietary Limited, A.O. (Australia) Pty Limited and Northern Mining Corporation N.L. (hereinafter collectively called "the joint venturers");
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> to confirm the basis of tenure for the relevant mining tenements; and
>
> to provide for appropriate security arrangements.

The Bill contains four parts, which, in addition to ratifying the agreement, also address matters of tenure and security.

Part II provides for ratification of the agreement, authorises its implementation, and provides that the Governor may make by-laws relating to the townsite and town development clause of the agreement. Penalties for contravention or failure to comply with a by-law are referred to.

Part III relates to mining tenements and rights as to minerals and, with respect to mining tenure, the provisions of the Bill cover only the Argyle mining area. This area is illustrated on the agreement plan marked "A" comprising four temporary reserves—hereinafter referred to as the "red area"—and 122 mineral claims—hereinafter referred to as the "blue area".

It would be appropriate if I now table a copy of the plan marked "A". Therefore, I seek leave to table the plan marked "A" referred to.

Leave granted.

The paper was tabled (see paper No. 600).

Mr P. V. JONES: Of the 122 mineral claims contained in the blue area, 118 have been approved to one of the joint venturers—CRAE—under the normal provisions of the Mining Act 1904.

The four outstanding applications numbered 80/6787, 80/6788, 80/7854, and 80/7855 have not been approved as they are the subject of a dispute with Afro-West Mining and Exploration Pty. Ltd. following overpegging of the claims by that company and the instigation of Supreme Court proceedings. These proceedings have prevented CRAE's applications being heard in the normal manner in the Warden's Court.

CRAE was first in time to peg and apply for the area as mineral claims, and the Government is satisfied that CRAE on behalf of the joint venturers clearly established a priority to develop the diamond prospect within its mineral claims; that is, the blue area.

The Bill grants and registers mineral claims 80/6787, 80/6788, 80/7854, and 80/7855 and also validates the approval and registration of the other mineral claims in the blue area. It also provides that all such claims—and any mining lease in respect of such land granted to the joint venturers under the agreement—are immune

from legal challenge in respect of current or future legal proceedings, but this does not in any way render the joint venturers immune from the obligations and conditions of the agreement.

It extinguishes the rights of all persons—other than CRAE or the joint venturers—under the Mining Act in the "blue area" and renders of no effect pegging whether before or after the coming into operation of the Act.

The "red area" comprises in effect temporary reserves 7216H, 7217H, 7311H, and 7323H, excluding the blue area—the area to which I have already referred—and is subject to rights of occupancy in favour of CRAE.

In respect of this area the Bill—

extends the temporary reserves and the rights of occupancy to CRAE for a period of five years—after which time the balance of those temporary reserves will be cancelled and become Crown land available for pegging by anyone;

provides that pegging during the currency of the temporary reserves other than by CRAE and the joint venturers on and after 9 February 1980—being three months after the commencement of CRAE's rights of occupancy over the temporary reserves—is of no effect;

provides that applications for mining tenements made before 9 February 1980 in respect of pegging by persons other than the joint venturers may be dealt with by the warden and the Minister for Mines in the normal way, except that the warden cannot make a recommendation to the Minister to grant such an application unless he is satisfied that the applicant was at the time of the creation of the temporary reserve carrying out bona fide prospecting operations on that land.

Part IV relates to the security of the diamond mining and processing areas. It makes provisions for protection, given the methods of mining and the handling of the project.

The Bill provides that the Governor may, by Order-in-Council, declare any land or premises where specified operations are being conducted for the purposes of the agreement to be designated areas for the purposes of part IV. In this part special provisions with respect to security which will apply within a designated area are set out.

It will be an offence for a person within a designated area to have, without lawful authority or excuse, an uncut diamond in his possession.

Control of entry to and egress from a designated area is provided for in the Bill. A person may enter or exit from a designated area only by way of a controlled access point and the Bill provides that no person may enter a designated area without the permission of a security officer, who must be the holder of a licence as a guard under the Security Agents Act 1976. A police officer or a person having a statutory right of entry shall, however, not be refused permission to enter a designated area unless he fails to provide appropriate evidence of his requirement to do so.

A security officer may withhold permission for a person—other than a police officer or person having a statutory right—to enter a designated area until that person agrees to abide by such reasonable conditions of entry as the security officer considers necessary which may include a condition that he will, while within or leaving a designated area, allow himself or property in his possession to be searched by a security officer if requested to do so. Such a search, however, may not be of the cavities of the body.

The provisions of the Bill also authorise a security officer to give directions to persons on a designated area and also to stop a person within the area and require him to supply his name and authority for being in the area and to remove persons, vehicles, or other property from a designated area in the cases mentioned in the Bill.

A security officer may search any vehicle, or other property—other than clothing worn by a person—in the possession or under the control of a person within a designated area. For this purpose, the security officer may dismantle or remove the property to a place of safe custody pending search.

Detention by a security officer—using only such force as is reasonably necessary—of persons within a designated area until the arrival of a police officer is provided for in the Bill. This can occur where it appears to the security officer that a person has an uncut diamond in his possession without lawful authority or excuse; where the stealing or concealing of an uncut diamond is reasonably suspected; or where a person is found in a designated area without permission.

The Bill provides that a security officer shall have reasonable grounds for suspecting stealing or concealing of an uncut diamond where a person, who has agreed, before entering a designated area, that he will allow himself or his property to be searched while in or when leaving such area, fails to allow such a search.

A police officer may search any person who is detained by a security officer and any clothing worn by such a person.

Searching shall be carried out by a police officer of the same sex as the person to be searched. Where that is not immediately practicable, a police officer may cause the search to be carried out by a security officer of the same sex as the person to be searched.

The Bill does not authorise either a police officer or a security officer to carry out a body cavity search; however, a police officer may arrange for a medical practitioner to examine the body cavities of the person to be examined.

Such examination shall be carried out in the presence of a police officer of the same sex as the person be be examined, or, if that is not immediately practicable, in the presence of a security officer of the same sex as the person to be examined.

A person who resists detention, escapes, or attempts to escape, or obstructs or hinders a police or security officer or medical practitioner commits an offence.

The clauses in the Bill relating to entry to and conduct within a designated area do not apply to police officers or other persons with a statutory right acting lawfully in an emergency.

The powers of search conferred on a police officer by the Bill are in addition to, and do not affect, the powers and duties that a police officer otherwise has.

The Bill also provides for the restitution to the joint venturers of uncut diamonds upon a conviction for an offence committed within a designated area, involving the stealing, receiving, or possession of such diamonds.

The provisions of the Security Agents Act 1976 applicable to the holder of a licence as a guard under that Act, will apply to a security officer.

The Bill also provides that a police officer or security officer, duly exercising his powers under the Bill, shall not be liable for any offence of obstructing or hindering a person in the exercise of a power or in the performance of a function or duty, and also provides that the Governor may make regulations presenting matters that are necessary or convenient for giving effect to the purposes of the security clauses of the Bill.

I would also advise members that amendments to sections 76A to 76E of the Police Act will be introduced by the Minister for Police so that these sections apply to uncut diamonds as well as gold and pearls, and to increase the penalties.

I turn now to the specific provisions of the agreement scheduled to the Bill before the House.

The agreement provides an obligation on the joint venturers to continue their field and office engineering, environmental, marketing, and finance studies to enable them to finalise and submit to the Minister their detailed proposals which are normal to agreements of this nature, and their proposed marketing arrangements.

The joint venturers shall report quarterly on these matters—the first report to be lodged during April 1982.

Under the agreement, the joint venturers have an obligation to submit for approval by the Minister their proposed marketing arrangements. Such submission is to be made at the time of, or prior to, their submission of normal proposals. The decision by the Minister in respect of the marketing arrangements will be final and will not be referable to arbitration.

From the date marketing arrangements are approved, the agreement also provides that the joint venturers shall submit a report to the Minister at half-yearly intervals—or at any other intervals required by him—with respect to implementation of such arrangements.

Any significant alteration to the marketing arrangements desired by the joint venturers shall be submitted to the Minister for his approval.

As I have indicated, the agreement requires the joint venturers to submit detailed proposals as is normal in such agreements. Additional requirements in this agreement, however, are proposals for security measures, and measures to be taken for the engagement and training of employees.

The joint venturers are specifically required to submit proposals for the production of diamonds from alluvial deposits at Argyle by 31 December 1982, and from the kimberlite pipe by 31 December 1983.

Production from the alluvials is required no later than six months from the date of approval of proposals, and from the pipe no later than 31 December 1986. The minimum levels of capacity are 500 000 tonnes of ore per annum for the alluvials, and two million tonnes of ore per annum for the pipe.

It is expected that production from the alluvials will commence during 1982.

Proposals for development at Ellendale are required no later than 31 December 1990 and provision is made for a programme of work to be undertaken at Ellendale in the interim.

The proposals for both Argyle and Ellendale must include details of each of the following matters—

the mining and recovery of diamonds from ore including plant facilities and security measures;
roads;
town and townsite arrangements;
water supply;
power;
airstrip in, or adjacent to, the mining areas and other airport facilities and services;
use of local professional services, labour, and materials, and measures to be taken with respect to the engagement and training of employees;
leases, licences, or other tenures of land; and
an environmental management programme.

Provisions similar to those contained in other ratified agreements for consideration and implementation of proposals and for submission of additional proposals are contained in the agreement.

Further, I would stress that in the event the joint venturers desire to mine other minerals from their lease areas, there is a new requirement to submit additional proposals.

I would make particular reference to the fact that should the proposals for the Ellendale area not be approved, the agreement in respect of the Argyle areas will not cease or determine.

Protection and management of the environment is specifically provided for in the agreement. In respect of the aforementioned proposal to be submitted on this matter, the company is required to carry out a continuous programme of investigation and research, including the monitoring and study of the environmental impacts from implementation of its proposal.

The agreement stipulates that the company will report annually on its activities, and at three-yearly intervals a more detailed report on environmental investigations and rehabilitation management is required. Arising from the detailed report, the Minister may notify the company that he requires additional detailed proposals for the management and protection of the environment.

In addition to the normal provisions for use of local professional services, labour, and materials, a new provision for quarterly reporting on the implementation of such provisions has been incorporated in the agreement.

With respect to roads, the agreement provisions are consistent with usual arrangements, with the addition of a provision for conversion of private roads to public roads.

The agreement provides for proposals in relation to airstrip requirements in or adjacent to the mining areas, and for any necessary upgrading of existing airport facilities in the Kimberley region.

The mining area provisions of the agreement include the following—

(i) Argyle mining area—

(a) Blue area—

Within three months of having their proposals for the alluvials approved, the joint venturers shall apply for and be granted a mining lease for the whole of the blue area for all minerals; rental to be as from time to time applicable under the Mining Act 1978; term to be 21 years commencing from the date of the application with the right to further renewals during the currency of the agreement.

On the grant of a mining lease, the joint venturers shall not be required to comply with the expenditure conditions imposed by or under the Mining Act 1978 in regard to the mining lease, and the State shall not during the currency of the agreement register any claim or grant any lease or other mining tenement under the Mining Act 1904 or the Mining Act 1978 to any person other than the joint venturers within the mining lease.

(b) Red area—

The joint venturers can apply once only, over a period not exceeding five years from the commencement date of the agreement, to have any mining tenements granted to CRAE or the joint venturers in the red area, included in the mining lease. The grant is at the discretion of the Minister for Mines.

I should reiterate here that the life of the temporary reserves in the red area is five years,

after which time the balance of those temporary reserves will be cancelled and become Crown land available for pegging by anyone.

(ii) Ellendale mining area—

It would be appropriate if I now table a copy of the Ellendale mining area plan referred to in the agreement as plan marked "B". I therefore seek leave to do so.

Leave granted.

The paper was tabled (see paper No. 600).

Mr P. V. JONES: To continue with the provisions of the agreement for the Ellendale mining area—

The joint venturers within three months of the approval of the relevant proposals at any time within 10 years from the commencement date of the agreement, shall apply for and be granted a mining lease for all or any of the mineral claims held by them or CRAE, within the Ellendale mining area.

Pending the grant of such a lease the joint venturers will not be obliged to comply with labour conditions in respect of the mineral claims provided they undertake an annual programme of work in respect of such claims as approved by the Minister for Mines.

After two years from the commencement date, the rentals on mineral claims in both the Argyle and Ellendale mining areas that have not been included in the mining leases under the agreement, shall attract the rental as from time to time applicable under the Mining Act 1978 for a mining lease.

In regard to electricity, the joint venturers have agreed to undertake studies with the State Energy Commission with a view to the establishment of a hydroelectric power station on the Ord River and the associated transmission system. This will comprise a significant consequential benefit from the project. In the case of Ellendale, the joint venturers will collaborate with the State Energy Commission in arrangements for the provision of power.

Provision is made in the agreement for the joint venturers to construct and operate facilities to draw water from Lake Argyle and I would emphasise here that preliminary agreement already has been reached between the joint venturers and the Public Works Department on this matter. The remainder of the water provisions are consistent with recent agreements.

The agreement contains the usual provisions in respect of lands, except that provision has been made for reasonable rentals and for the review of such rentals.

The townsite and town development clauses of the agreement provide for the establishment of a new town or towns or the expansion of existing towns in the Kimberley region at the joint venturers' cost.

Provision also has been made for interim arrangements leading to the development of a town or towns as provided for in the agreement. Such arrangements are subject to the approval of the Minister. Any interim arrangements if approved would apply only up to a production level of three million tonnes per annum from the Argyle pipe, or until 31 December 1987, whichever occurs first.

The townsite clauses are written so as to facilitate progressive normalisation and provision has been allowed for the State, if it wishes and in consultation with the joint venturers, to appoint an administrator with all, or any, of the powers of a local authority to administer the township as an interim arrangement at the cost of the joint venturers.

The royalties provisions of the agreement provide a mechanism for the assessment of a profit-based royalty.

Over the life of the project the joint venturers will pay 22.5 per cent of before-tax profits in royalties. A minimum royalty in any one year at the rate of 7.5 per cent of FOB values has also been agreed.

Arrangements have been agreed whereby in years when the profit-based royalty is less than the minimum royalty, the difference can be carried forward and deducted from the profit-based royalty in future years.

To avoid the possibility of a significant lagging effect resulting from the carry forward of such deficits, it has been further agreed that no less than 75 per cent of the profit-based royalty would be paid to the State in any one year.

The negotiation of a profit-based royalty is a significant departure from the normal method of collection of royalties. It provides an opportunity for the State to share in the profits from the operation, having regard to the fact that the 22.5 per cent is levied before tax as compared with the joint venturers' 77.5 per cent share which will be subject to Commonwealth income tax.

The minimum royalty of 7.5 per cent FOB guarantees that the State will gain significant benefit from the development in its early years and in periods of low profit.

With respect to further processing, the joint venturers have committed to establish facilities for the sorting of diamonds in Western Australia within one year of the commencement of production. To encourage a progressively higher degree of sorting to be carried out here, the definition of "further processing" has been extended to include sorting facilities.

An obligation is included for the joint venturers to pursue and promote the maximum degree of processing in Western Australia. In addition, within five years of production from the Argyle pipe and subject to a viability test, the joint venturers are required to be "adding value" to their production to an amount equivalent to 20 per cent of their annual profit after payment of royalties. This requirement leads to an increase in the processng obligation as the level of profit increases.

A penalty of up to an additional 10 per cent of total royalty payments for a particular year is provided for in the event that the required level of processing is not achieved in that year.

Members may be aware that the Argyle deposit, which will be the first area to be developed, consists predominantly of industrial grade diamonds. Nevertheless, there is a smaller proportion of the gem quality stone.

Addition of value, which can be met by the joint venturers processing either the gems or industrial grade diamonds, has been the prime consideration in negotiating the processing obligations of the agreement.

In contrast to previous agreements, the requirement to process has been strengthened by the inclusion of a specific viability test. If the joint venturers are able to demonstrate to the satisfaction of the Minister that the further processing is non-viable, they are excused from the additional royalty penalty obligation for a period of three years.

Provision also is made for supply of diamonds to a third party for processing, if the joint venturers fail to meet their obligations.

I would emphasise here that significant flow-on benefits to the community from further processing has been the State's objective in negotiating these obligations on the joint venturers.

The agreement requires proposals for security measures; recognises the need for adequate security arrangements; makes reference to the provisions of the Bill; and establishes appropriate arrangements for the State to take measures at the joint venturers' expense and after consultation with the Minister for Police and Traffic, to ensure adequate security.

The remaining provisions of the agreement are common to agreements of this nature between the State and other resource developers, and I believe are well understood by members of the House.

The agreement provides for the development of a new industry of great interest to Western Australia, and the Government believes that the project will be of substantial value not only in regard to the aspects of direct revenue and employment, but also in regard to the sound prospects of considerable flow-on benefits to the State in general, and to the East Kimberley in particular.

It would be appropriate at this time to convey the Government's thanks to the representatives of the joint venturers who participated in the discussions which have taken place over a fair part of 1981, particularly in the last two months, which have led to the agreement and the Bill now before the House. We also express thanks to officers within the various Government departments, such as the Crown Law Department, the Department of Mines, and the Department of Resources Development for all they have done in assisting in the formulation of this agreement and in the preparation of the Bill.

With those comments, I commend the Bill to the House.

Adjournment of Debate

MR BRIAN BURKE (Balcatta—Leader of the Opposition) [3.15 p.m.]: I move—

That the debate be adjourned for three weeks.

Sir Charles Court: No.

Mr Brian Burke: You said you had all the time in the world.

Sir Charles Court: You take a normal adjournment unless you arrange it beforehand.

Motion put and a division taken with the following result—

Ayes 19

Mr Barnett	Mr Hodge	
Mr Bertram	Mr Jamieson	
Mr Bridge	Mr McIver	
Mr Bryce	Mr Parker	
Mr Brian Burke	Mr Pearce	
Mr Terry Burke	Mr Skidmore	
Mr Carr	Mr I. F. Taylor	
Mr Davies	Mr Wilson	
Mr Evans	Mr Bateman	
Mr Harman		*(Teller)*

Noes 27

Mr Clarko	Mr McPharlin
Sir Charles Court	Mr Mensaros
Mr Cowan	Mr Nanovich
Mr Coyne	Mr O'Connor
Mrs Craig	Mr Old
Mr Crane	Mr Sibson
Dr Dadour	Mr Spriggs
Mr Grayden	Mr Stephens
Mr Grewar	Mr Trethowan
Mr Hassell	Mr Tubby
Mr Herzfeld	Mr Williams
Mr P. V. Jones	Mr Young
Mr Laurance	Mr Shalders
Mr MacKinnon	*(Teller)*

Pairs

Ayes	Noes
Mr A. D. Taylor	Mr Sodeman
Mr Grill	Mr Rushton
Mr T. H. Jones	Mr Watt
Mr Tonkin	Mr Blaikie

Motion thus negatived.

Debate adjourned, on motion by Mr Shalders.

POLICE AMENDMENT BILL

Second Reading

MR P. V. JONES (Narrogin—Minister for Resources Development) [3.19 p.m.]: I move—

That the Bill be now read a second time.

This Bill to amend the Police Act is directly related to the proposals contained in the Diamond (Ashton Joint Venture) Agreement Bill 1981, and is supplementary to it.

It is, of course, our policy and our expectation that with the adoption of the agreement legislation, diamond mining will become a major commercial enterprise within Western Australia, providing significant income and benefits to the State.

Diamonds present special problems of security and proprietorship. Those problems as they relate to the minesite and other particular areas are dealt with in the agreement Bill. In addition a need exists for general provisions to protect the produce of the diamond mining enterprise.

For many years the Police Act has contained special provisions relating to the unlawful possession of gold or pearl; and with diamonds being of minute size and of high value, it is appropriate that they be placed on the same footing as gold or pearl. This Bill therefore proposes to amend sections 76A to 76E of the Police Act to bring uncut diamonds into the same category as gold and pearl. These amendments will create an offence for any person who, without lawful excuse, is in possession of any uncut diamond.

The reputed tenant or occupier of premises where an uncut diamond is found shall be deemed in possession of the uncut diamond in the absence of proof to the contrary.

Mr Bryce: Sounds like Africa!

Mr P. V. JONES: Any person found upon premises where any stolen uncut diamonds were seized may be convicted unless he gives a satisfactory account of his presence there.

Mr Pearce: Is there an apartheid provision in this?

Mr P. V. JONES: Any person who assists another in the commission of an offence in relation to the unlawful possession of uncut diamonds will commit an offence also. Uncut diamonds seized under the provisions of the Police Act, unless ownership can be established, will be forfeited to the Crown.

All the provisions described already are contained in the legislation as it relates to gold and pearl. The amendments now proposed extend those provisions to apply to uncut diamonds.

It is proposed that penalties related to the unlawful possession of gold, pearl, and uncut diamond will be increased to reflect present-day values. The penalties for all offences other than that of assisting another to unlawfully possess gold, pearl, or uncut diamond are proposed to be increased from a fine of $500 or six months' imprisonment to a fine of $10 000 or two years' imprisonment.

The penalty for the offence of assisting another in the unlawful possession of gold, pearl, or uncut diamond is proposed to be increased from a $250 fine or three months' imprisonment to a $5 000 fine or imprisonment for one year. Increases to penalties as proposed reflect current needs in these important commercial areas.

The Government is advised that 20 per cent of the world's diamonds are sold or disposed of on the black market, and this Bill is designed to deter persons from stealing or being associated with the theft of diamonds. Any theft of diamonds will not only result in a loss to the companies involved, but also create a loss to the people of Western Australia by way of a reduction in royalty payments. Therefore, curtailment of such activities as proposed by this Bill is necessary.

I commend the Bill to the House.

Debate adjourned, on motion by Mr Carr.

PRISONS BILL

In Committee

Resumed from 17 November. The Deputy Chairman of Committees (Mr Crane) in the

Chair; Mr Hassell (Chief Secretary) in charge of the Bill.

Progress was reported after clause 59 had been agreed to.

Clauses 60 and 61 put and passed.

Clause 62: Visits by legal practitioner—

Mr PARKER: Some members will have received today from the Law Society of Western Australia a submission concerning this Bill. I understand the Chief Secretary received it earlier today. Like other bodies, the Law Society has had very limited time to consider this matter. No doubt that is the reason for the late arrival of the submission. Some of the clauses to which it refers and about which it is concerned have been dealt with already by this Committee.

This clause relates to visits to prisoners by legal practitioners. A submission was made earlier by the Criminal Lawyers' Association; and the point made by both organisations is that subclause (2) is insufficient to allow a legal practitioner normal access to his client.

Since the Chief Secretary put a query to me, I have ascertained that the Criminal Lawyers' Association is quite a large body, and it has within its membership most, if not all, of the people practising in the criminal jurisdiction of this State. They include some very prominent people of no political persuasion and of all.

The two organisations acknowledge that at times the superintendent ought to be able to determine whether a lawyer should visit a prisoner; and those times are outside normal hours. However, if a lawyer wishes to interview his client at a reasonable hour, he should be able to do so. When the lawyer wishes to interview his client at what might be described as an unreasonable hour, the approval of the superintendent ought to be sought.

In my own circumstances, until very recently, when, as a member of Parliament, I sought to interview prisoners, I have been afforded every opportunity to do so. My interviews have been at mutually convenient times; and the Superintendent of the Fremantle Prison has made every effort to ensure that I had my interviews in private, and for as long and as comfortably as I wanted.

The only problem I have had has not been with the superintendent. On the last occasion that I tried to go into the prison, the superintendent apologised and said that he was not in a position to give me approval, and that I had to approach the department. After I received the departmental approval, I had no problem with the superintendent.

I have never experienced any problems in that regard. I do not think either the Criminal Lawyers' Association or the Law Society is necessarily envisaging problems being created by superintendents. However, they make the point that the Bill ought to set down that a legal practitioner has a right to visit his client in reasonable hours. It is only when the hours are unreasonable that the approval of the superintendent should be sought.

The Law Society has suggested amended wording which seems to meet the case adequately. On that basis, I move an amendment—

> Page 40, lines 1 to 4—Delete subclause (2) with a view to inserting the following passage—
>
> > A legal practitioner may for the purpose of pending court proceedings or for other bona fide purposes interview a prisoner who is his client at a reasonable hour or as otherwise authorized by the superintendent within the view but not the hearing of an officer.

The wording proposed overcomes the problem of the superintendent needing to make arrangements at other than reasonable hours. At the same time, it incorporates the right of a legal practitioner to visit his client while providing that a prison officer is entitled to be within sight of the interview.

I suggest to the Committee that it is most appropriate that this submission from the Law Society, which submission seems most rational and reasonable, be adopted.

Mr HASSELL: I think the Law Society submission which I received in my office today around 1.30 p.m. should be duly considered, and it will be. However, neither the Law Society nor the member for Fremantle would really intend to do the kind of disservice to prisoners which this amendment would do.

Clause 62 is deliberately structured as it is to cover two situations. One is the situation of a prisoner who desires or needs to see his legal practitioner for the purpose of his own defence or his own affairs. In subclause (1) we are writing into the Prisons Bill a very clear right for a legal practitioner to see a client at a reasonable hour or as otherwise authorised by the superintendent within the view, but not the hearing, of an officer. This is being done despite what has been said by those people who have attacked the legislation on the basis that it diminishes prisoners' rights. It covers a situation where a legal practitioner is defending a man who needs the services of legal

advice and assistance. We are writing into the Bill that prisoners will have this right.

There are other circumstances where for a variety of reasons legal practitioners want to see prisoners who are not their clients. For example, it could be that a prisoner is wanted as a witness in another case. That is why subclause (2) is expressed without reference to the client relationship. It simply says—

> (2) With the approval of the superintendent, a legal practitioner may at a reasonable hour interview, within the view but not the hearing of an officer, a prisoner for a *bona fide* purpose.

All that will have to be done is for the legal practitioner or the prisoner to establish the bona fides of the purpose of the interview for that interview to be granted.

The amendment proposed by the member for Fremantle would restrict this approval to a prisoner and his legal adviser. That is not the area meant to be covered by this subclause. The amendment would have the effect of reducing the access of prisoners to legal practitioners. I oppose it for that reason and because I do not believe this would be the true intention of the Law Society or the member for Fremantle.

Amendment put and negatived.

Clause put and passed.

Clauses 63 to 66 put and passed.

Clause 67: Letters etc. written by prisoners—

Mr PARKER: This clause relates to the ability of prisoners to send uncensored mail to various categories of individuals. The classes include the Minister, the director, and the parliamentary commissioners, both State and Federal.

The Law Society, the Criminal Lawyers' Association, and the Civil Rehabilitation Council have indicated that legal practitioners also should form part of the categories entitled to have sent to them letters without their being censored. Certainly in the case of the Civil Rehabilitation Council and the Opposition—and I have had a number of people contact me on this matter since the controversy arose—it is believed that members of Parliament also should be included in these categories.

It seems to me the Minister has still failed to provide any reason to explain why he does not propose to include, firstly, legal practitioners, and, secondly, members of Parliament. From answers to questions I have asked the Minister it would seem that letters to and from legal practitioners are not opened, but that this is not intended to be enshrined in the legislation. If the rest of the legislation is any guide, it is intended that the practice will be discontinued.

The practice in relation to members of Parliament, in my own knowledge, has changed despite answers to questions I have directed to the Minister. Since those questions I have found that my letters have been arriving much more expeditiously than was previously the case. Perhaps an instruction has gone out.

But the Minister has not given any reason for letters to and from legal practitioners and members of Parliament not being the subject of confidentiality. The relationship between a member of Parliament and a prisoner is different from the relationship between a prisoner and an ordinary member of the community, including a relative. A member of Parliament has statutory obligations and it is unlikely he would engage in the sort of activities about which the Minister spoke. Of course, I am sure the Minister could come up with some historical examples of members of Parliament who did engage in unsavoury activities; I am sure he also could find examples of Ministers who have done likewise, and the same would apply to departmental directors; and yet they are to be able to get uncensored letters. I do not mind this. There is no question but that prisoners should have the right to correspond confidentially with their members of Parliament.

While I cannot go along with everything said by the Criminal Lawyers' Association about the rights of prisoners being the same as the rights of anyone else, I do believe that the rights of prisoners should be the same as those of other people unless it can be shown that those rights are in some way in conflict with prison management or the need to keep prisoners away from the public or each other.

I would like to quote certain worth-while portions from the Nagle Royal Commission which inquired into the prison system in New South Wales some years ago. The commission expressed certain views very well, including views of other bodies. I quote from page 372 of its report as follows—

> Throughout the prison systems of the world, however, the position has been changing. Most Anglo-Saxon countries now accept the definition of principle expressed in the U.S. Federal case of *Coffin* v. *Reichard* in 1944: "A prisoner retains all the rights of an ordinary citizen except those expressly, or by necessary implication, taken from him by law."

More recently, another U.S. Federal Court declared: "Only a compelling state interest centering about prison security or a clear and present danger of a breach of prison discipline, or some substantial interference with orderly institutional administration can justify curtailment of a prisoner's constitutional rights".

In Europe, too, there have been concrete moves to protect the basic rights of prisoners as individuals. The Committee of Ministers of the Council of Europe twenty years ago adopted a resolution laying down the principle that the mere fact of detention should not result in a prisoner, whether untried or convicted, being denied the rights he would enjoy if he were free. The resolution adds that the exercise of such rights may be limited by law or by prison rules "if it is incompatible with the purpose of imprisonment or the maintenance of the order and security of the prison". The principle does not apply in cases where full or partial forfeiture of such rights forms part of a convicted prisoner's sentence. The resolution regulates the exercise by prisoners of their electoral rights, their civil rights—particularly with regard to marriage and the administration of property—their right to social benefits, especially retirement pensions, and their right to bring legal proceedings and correspond with people or bodies responsible for defending their interests.

The Commission agrees with the statement of principle expressed in that resolution.

Those statements are a much more succinctly and better expressed view of what I was putting to the Chamber last night; that is, there is a ground for taking away prisoners' rights in this regard and I support the attempts which have been made to do this in the legislation. However, such attempts must have in mind the good order and security of the prison in order that they are justified.

In other words, the onus is not on us to show why there is some difference between members of Parliament and and legal practitioners and other members of the community which should allow them to receive uncensored correspondence from prisoners, but rather on the Government to show why there is some such significant breach of prison discipline, maintenance of prison order, or instances such as those which I have just read to members from the various authorities, which would result in the ability to remove the right of prisoners to receive uncensored mail from anyone.

If we say *ab initio* that prisoners have the right to send uncensored mail to anybody, it seems to me the Minister has demonstrated a case as to why prisoners should not be able to send uncensored mail to ordinary citizens such as relatives and friends because, as the Minister pointed out, they may be engaged in transferring or receiving contraband or making plans which are contrary to prison security, such as plans for escape.

In some cases, they may be engaged even in criminal activities, which they are directing from the confines of their prison cells, with people with whom they are corresponding outside. To the extent it has been put forward by the European commission, the Minister has, probably demonstrated there is a reason for the abrogation of that particular civil right of prisoners; but he has not demonstrated at all any such right or compelling reason with regard either to legal practitioners or to members of Parliament.

Submissions have been made by the Criminal Lawyers' Association and the legal practitioners' association with regard to legal practitioners, and the Civil Rehabilitation Council with regard to legal practitioners, and members of Parliament. We also have made submissions with regard to members of Parliament and I might say I have received very considerable support by way of calls and letters from people as a result of the controversy in which I was involved a few weeks ago. In view of all those submissions, it is my view the Minister should accept the amendment I propose to move. I move an amendment—

> Page 41—Insert after paragraph (d) the following new paragraphs to stand as paragraphs (e) and (f)—
>
> (e) a person holding office as an elected member of the Parliament of Western Australia or the Parliament of the Commonwealth of Australia, or
>
> (f) a legal practitioner acting on behalf of the prisoner.

Mr HASSELL: The amendment proposed is not acceptable for good reason and not because the issues have not been considered and thoroughly canvassed in the drafting of the legislation.

The first proposition is that there should be a statutory right for a member of Parliament—that is, a member of the State or Commonwealth Parliament—to receive uncensored mail from a prisoner. I point out we are including in the Act for the first time a statutory right for prisoners in relation to mail.

Hitherto the provision has been contained in prison regulations only and, under regulation 66, it has been to the effect that "prisoners shall be permitted to communicate with other prisoners on a scale and in such manner as is approved from time to time by the Director and such communications shall be subject to censorship". It is a matter of regulation made under the Act and it is a matter of practice and direction from the director.

Under that system certain practices have emerged in relation to mail. They are capable of being changed without reference to Parliament and, of course, the member for Fremantle himself has alleged I have brought about some changes since being appointed Chief Secretary.

I want to say to the member for Fremantle and to the Chamber, to put it clearly on the record, that since becoming Chief Secretary I have certainly insisted the department should have regard to the Act and the regulations under wich they operate; but I have not taken any action which would change the policy or practice in regard to mail.

I also want to put on the record very clearly, because the member for Fremantle at one stage suggested to the contrary, I have not been involved in any process concerning the censorship of prisoners' mail.

Mr Parker: I am not suggesting you get involved in the censorship system; but what I suggest is that copies of mail have been sent to your office.

Mr HASSELL: In answer to the member's questions I have denied that and I deny it again. Copies of prisoners' letters have not been sent to my office and it is not my responsibility to be involved in reviewing prisoners' correspondence.

As I suggested in the chamber last night, I receive enough correspondence directly from prisoners without starting to read the mail they send to other people. Also in answer to questions from the member for Fremantle I made it clear that, if prisoners' letters disclosed some serious breach of security or involvement in criminal activity, I would except and be entitled to know about it through the censorship process.

However, I return to the point that, contrary to what critics of this legislation keep repeating, it increases the statutory rights of prisoners; it increases the guarantees of the rights of prisoners, and this is an example of that, because we are prepared no longer to leave it to regulation to provide that a prisoner may receive uncensored mail according to a regulation or a direction made by the Minister or the director from time to time under the regulation.

Mr Parker: Then why do you not include in the Bill itself that there are practices with regard to legal practitioners? You are incorporating the practice in the legislation.

Mr HASSELL: I shall come to that in a moment. Having established the fact that we are writing into the Statute a statutory right for a prisoner to despatch and receive certain mail on an uncensored basis, the question arises as to what categories of people should be included in the list contained in clause 67(1). Needless to say, this matter has given us tremendous work in considering the categories and what would be appropriate. Various discussions have taken place along the way.

I think a first step in legislating to guarantee uncensored mail—if it can be regarded as a first step—is to establish prisoners' rights in that respect; and it is proper that we should be cautious. We must remember that if we write such provisions into the Act they become statutory rights; they cannot be altered regardless of the circumstances that arise, any directive given by the director or the Minister, or any security factor that may arise. It is all very easy for one to say that the list should include legal practitioners and members of Parliament, but the provision has been restricted to people who have particular statutory or public responsibilities.

Mr Parker: Don't members of Parliament have public responsibilities?

Mr HASSELL: The Minister is answerable to the Parliament, and the director is answerable to the Public Service Board and to the Parliament through the Minister for the administration of the Act. The Parliamentary Commissioner for Administrative Investigations is an independent commissioner and responsible for certain things under his legislation. The Commonwealth Ombudsman has a particular role under Commonwealth legislation, bearing in mind that our gaols hold some Commonwealth offenders. We then come to the question of whether members of Parliament and legal practitioners have statutory or public responsibilities. It is no less than naive to suggest that all members of Parliament have the level of public responsibility that the community is entitled to expect from others in the administration of an Act which involves questions of public security and protection. Members of Parliament have a public responsibility to represent interests, but sometimes those interests would be the private

interests of prisoners who have particular views, gripes, stories to tell, and allegations to make.

Mr Parker: What's wrong with members receiving uncensored mail?

Mr HASSELL: Members of Parliament do not have an overriding obligation to put the interests of the whole prison system and the interests of the public ahead of the interests of an individual prisoner or other citizen. Clearly there may be occasions of a member of Parliament receiving privileged mail which ought to be the subject of censorship.

Mr Parker: Are you saying some prisoners' allegations ought not to be forwarded to members of Parliament?

Mr HASSELL: I am not suggesting that at all.

Mr Parker: It's logical from what you are saying.

Mr HASSELL: I am saying members of Parliament should not be in a privileged position in regard to prisoners' mail because it will on occasions put members of Parliament in an impossible position with regard to the content of the correspondence. Unless the member is naive, he must accept as fact that a member of Parliament is not an appropriate person to be in this privileged position because on occasions a conflict may arise. A member may purport, as he should, to represent the private and particular interests of one prisoner as against the general interests of the prison system and the general community. I do not accept that, at this stage of our legislating for the first time to write into the Act the right of certain people to receive uncensored mail from prisoners, we should include members of Parliament, both Commonwealth and State, in the category of people whose mail should not be checked.

Mr Parker: What about the prospect of including members of Parliament in the order or directive that you or your predecessor issued affecting the censorship of mail, if your argument in regard to the statutory right is accepted?

Mr HASSELL: We have before us completely new legislation, and in its drafting the people concerned had to consider many issues. In the light of clause 66 I wonder whether the directive to which the member refers would be valid.

Those sorts of questions have arisen in the area of censorship and the areas of visits and leave from prison. Frankly, some of these questions have been irreconcilable and unresolvable because at present we operate under an Act which is very out of date and practices which seem to have grown up without reference to the law as established under the Act.

The member for Fremantle said prisoners should be able to communicate with their members of Parliament without censorship. He used words similar to those because I took a note of his comments. If he confines the point to members of Parliament, the practice would be administratively impossible. The prison would have to determine who is the member of Parliament of a particular prisoner. In the case of a prisoner at Fremantle Prison would the prisoner's member be the member for Fremantle because Fremantle Prison is in his electorate, or would he be the member for the electorate in which the prisoner resided, or his family presently resides?

Mr Parker: Some prisoners think I am their member. Others go to their local members—in one case it was the member for Ascot, and I was then involved in that case. The prisoner originally came from the district of the member of Ascot. This practice was allowed in this way, but the practice has changed.

Mr HASSELL: I have already informed the Chamber that the rules have not been changed by me.

Mr Parker: The practices have changed.

Mr HASSELL: These difficulties are not part of the real issue. At this stage we are not prepared to consider—I do not say this matter should never be considered further—legislating to give a statutory right for uncensored mail to be passed between prisoners and certain people, bearing in mind that we have not previously experienced that statutory right in the legislation. We have been operating under practices and directives. We should not extend the right to members of Parliament, but if the matter needs to be considered at a later time, and we accept that members of Parliament should receive uncensored mail from prisoners, very well; however, it should not be done now.

In regard to legal practitioners receiving uncensored mail from prisoners, only mere naivity would support a proposition that legal practitioners act in the public interest when they act for their clients. I need hardly remind the member for Fremantle that only in recent years certain legal practitioners in Sydney have been involved in the most serious cases of the misuse of their trust accounts in regard to the disposal of illicit money obtained from illegal drug dealing and other organised crime.

Mr Parker: We currently have a practice that allows legal practitioners to receive uncensored mail.

Mr HASSELL: The member for Fremantle keeps raising this point. I repeat that I doubt whether the current practice is valid in light of the legislation as drafted. Even if it is valid, we must consider other matters. In drafting the legislation we had to consider all other issues to reach what we believed to be the appropriate conclusions. I have put forward what I believe to be the reasonable course; the Minister, the director, the parliamentary commissioner, and the Commonwealth Ombudsman are to receive uncensored mail. If any real issue of denying a prisoner's rights arises, we may have evidence to change the present situation but such issues have not been shown.

Quite apart from this issue, clause 62 guarantees the right for a legal practitioner to see his client in regard to any legal proceedings, and the prisoner is entitled to have an inquiry under clause 9. That inquiry may take place in regard to the security of prisons or prisoners, although I take it the Law Society does not want to include prisoners in that provision for some reason which is quite beyond me. We also have provision for prison visitors. So many outlets are available. The member assumes that the prison officers are not interested in dealing with genuine complaints, but that is not the case.

Mr Parker: I am prepared to concede that point, but the view of many prisoners is that they will not get a fair hearing from those sources, and they need to go to an independent authority.

Mr HASSELL: Prisoners have two ombudsmen to whom they can go, and they have access to the Minister and the director. The prisoners have their legal rights. The member assumes also that the Minister never responds to complaints. I deal with a lot of their mail and when issues are raised as to whether they should be granted leave of absence, they are always properly considered and changes to decisions are made in some cases. We know that prisoners, particularly in Fremantle, do not have a great deal to do; that is unfortunate, but some of them fill in their time by writing lengthy letters.

Mr Parker: I know that. I have been the recipient of some of them. I am not saying I want to get more letters.

Mr HASSELL: The ones who are dinkum get dinkum dealings.

I come back to the point that we do not accept the proposition that a legal practitioner is in such a public duty position that he should receive uncensored mail, bearing in mind that his right and duty to represent his client are already statutorily guaranteed for the first time under the provisions we have written into clause 62. We are dealing here with an issue of security and public responsibility on the part of the prison system and it is our view that the prisoners' rights are very clearly and adequately protected and the categories are sufficient at this stage. If experience indicates that the categories should be extended, we can look at the position at a later date.

Mr Parker: What sort of experience would you expect would indicate that?

Mr HASSELL: We should accept an experience of the operation of this over a period of some years. I am not saying 20 years or a time as long as that, but we should see how it progresses and what issues of prison security arise in the years ahead and the way in which some of these cases are dealt with because if ever a system was subject to change, to new challenges, to new questioning, to public interest groups' involvement, to the demand for rights, and to the challenging of authority, the prison system is it.

Now is not the time to go too far because we have been fortunate in this State that to date we have not really had a great security issue. We have had our problems in our prison system, but, on the whole, we have a very good prison system and good prison officers who work at a high standard of commitment to their tasks and to the prisoners they serve, and we have not had the kinds of problems experienced in other places; hopefully, they will not arise. We cannot prune our legislation on the basis that everything will continue as it is.

I do not seem to have any limit on the time I may speak. I do not know whether there is a limit, but I have said enough, anyway, and will sit down.

Mr PARKER: The Minister has by no means convinced me of the need not to have paragraphs (e) and (f) that I propose. Not only has he not convinced me, but also he has not addressed himself to the issues that I raised with regard to the civil rights of prisoners. The Minister says that for the first time certain statutory rights of prisoners are being written into this legislation, but the Minister himself said that one of the reasons for this new legislation was that the old Act is wholly inadequate and has served for 75 years and that he hoped the new one would serve for just as long a period of time. Of course, we can amend it and include provisions which write in more statutory rights of prisoners or prison

officers or anybody else. As the Committee would be aware, as far as the Opposition is concerned, the main thrust of its argument is not just the rights of prisoners, but also the rights of prison officers—in fact, principally the rights of prison officers and other people—who operate within the system and its in-management.

Those have been the issues we raised. I raised a serious issue with the Minister on the obligations and the onus which is on him to show why certain people should not have access to uncensored mail from prisoners and he has still not indicated that. The Minister, in fact, denigrates members of Parliament by indicating that they are not at the same level with respect to responsibility as, for example, he is. I would be surprised if any members on either side of this Chamber take the view that the Minister is any more responsible than they are. All of us are reputable and subject to the ultimate authority, so that if we do not perform well or if we are shown to be performing badly in some way, we can be removed from this place. With all due respect to the Minister, that is just as great an imposition of obligation upon us as is his obligation to the Chamber as a Minister.

We all know that the party system is not affected by which Government is in power. The Minister's obligation to the Chamber is of very little consequence because it would be almost unheard of for a Chamber to do anything to the Minister other than to uphold him, unless the Government had lost its majority. Members of Parliament really have the responsibility and can be removed by their constituents every three years or as often as there are elections.

Mr Hassell: What about Ministers and Governments?

Mr PARKER: Ministers and Governments can do that, in so far as they are members of Parliament.

Mr Hassell: I thought mostly they were.

Mr PARKER: That is the point I am making. In this respect there is no distinction or difference between the role of the Minister as a member of Parliament, and his role as Minister.

I would be happy if we were to write in "members of Parliament" and there would not be a need to include the term "Minister" because the Minister is obviously a member of Parliament.

Mr Hassell: It applies to the Minister for the time being administering this Act.

Mr PARKER: I appreciate that. The Minister says he is more responsible than the Parliament and his ministerial colleagues.

Mr Hassell: What absolute nonsense!

Mr PARKER: That is precisely what he said. He said it would be naive of me to suggest anything else. I do not agree with that. I do not believe the Minister has addressed himself to the fundamental issue I have raised; that is, that there is an onus on him, not on me, to say why uncensored correspondence ought not to be forwarded to people such as members of Parliament or legal practitioners. There is no onus on me.

The point I raised with regard to legal practitioners has some basis, but that can be covered in a whole range of ways. The Minister says the problem is that legal practitioners have the ability to launder funds in the way he suggested that some legal practitioners in Sydney had done or as certainly has been the case in America where some legal practitioners have actually been participants in white collar crime, but that situation will not be protected by this legislation because, as the Minister said, legal practitioners have a statutory right to visit and deal with their clients at any time convenient to the superintendent.

If those practitioners wanted to be engaged in that sort of activity they could do it anyway, but they cannot do it by way of correspondence. They cannot write to each other about their joint criminal dealings, but can only talk to each other about them.

It might create a problem if there are written things involved, but it would be fairly difficult for a legal practitioner to explain away the existence of a contract which was signed when his client was in prison if it were not something properly authorised.

The Minister has been caught by his own argument and, in fact, is not doing what he says he is doing. He is not debating the issues and has not shown in any way that the fundamental rights of prisoners ought to be taken away for the good order, management, or security of prisons. There has never been an occasion where that has been the case and the Minister is not able to say there has been.

As to the fact that members of Parliament may be placed in a difficult position, my attitude is that if a prisoner writes to me detailing some plan that he has to undermine the prison system or to escape from the prison—I have not had any prisoner who has done this—I would immediately make that information available to the appropriate authorities. I am sure every member of Parliament would do likewise. If a prisoner wrote to me and asked me to assist in some criminal dealing, I also would make that

information available to the authorities and also would refuse to engage in any criminal activity with him. I am certain that would be the situation with legal practitioners. I do not regard that as an invidious position in which to be placed.

So far as threatening correspondence is concerned, as I said during the second reading stage, if I receive threatening correspondence I judge how seriously I should take it, and I either throw it in the bin or refer it to the appropriate authorities, depending on whether I regard it as being serious. I do not think there is any problem in that area.

I do not agree with the Minister's attitude to clause 67 when he says that at this stage there is no ground for our including members of Parliament, but at another stage there may be a need to include them. If we translate the Minister's intention, he means that if at some stage his Government is in Opposition, it would be quite right for members of Parliament to be included. The same conditions ought to apply to both sides of the Chamber.

Amendment put and a division taken with the following result—

Ayes 18

Mr Barnett	Mr Hodge
Mr Bertram	Mr McIver
Mr Bridge	Mr Parker
Mr Terry Burke	Mr Pearce
Mr Carr	Mr Skidmore
Mr Cowan	Mr Stephens
Mr Davies	Mr I. F. Taylor
Mr Evans	Mr Wilson
Mr Harman	Mr Bateman *(Teller)*

Noes 22

Sir Charles Court	Mr Mensaros
Mrs Craig	Mr O'Connor
Dr Dadour	Mr Old
Mr Grayden	Mr Rushton
Mr Grewar	Mr Sibson
Mr Hassell	Mr Spriggs
Mr Herzfeld	Mr Trethowan
Mr P. V. Jones	Mr Tubby
Mr Laurance	Mr Williams
Mr MacKinnon	Mr Young
Mr McPharlin	Mr Shalders *(Teller)*

Pairs

Ayes	Noes
Mr A. D. Taylor	Mr Sodeman
Mr Grill	Mr Clarko
Mr T. H. Jones	Mr Watt
Mr Tonkin	Mr Blaikie
Mr Brian Burke	Mr Coyne
Mr Jamieson	Mr Nanovich

Amendment thus negatived.

Clause put and passed.

Clauses 68 and 69 put and passed.

Clause 70: Aggravated prison offences—

Mr PARKER: One of the several points with which I wish to deal under this clause, was raised by the Criminal Lawyers' Association.

Mr O'Connor: Is that Malcolm Hall?

Mr PARKER: He signed the letter, but I understand it is a submission from the Criminal Lawyers' Association.

Mr O'Connor: I wonder whether you have to be a criminal to be a member of the Criminal Lawyers' Association?

Mr PARKER: That is a very offensive comment, particularly when we take the view that Mr Hall has never been a criminal and some of the very senior members of the association are Queen's Counsels. One such member was on television representing that association. It is the sort of flippant comment the Chief Secretary made a few days ago.

Mr O'Connor: I do not think it is well worded.

Mr PARKER: Many things can be viewed in more than one way and I suggest that of all people the Deputy Premier should be aware of that.

The Criminal Lawyers' Association made the point that all persons should be equal before the law. It stated that assault is an offence under the Criminal Code and the fact that an assault is alleged to have taken place in a prison should not lessen the offence and the punishment applicable to its commission, nor deprive the accused person of his right to a trial by jury, should he so elect.

It seems that minor prison offences are dealt with quite satisfactorily, but the offences of aggravated assault are dealt with far from satisfactorily with respect to prisoners and their right to representation. A person who is charged with an aggravated prison offence ought to be represented by a legal practitioner. That is not the case under clause 76 and I believe that these people ought to be represented by legal practitioners.

I would imagine that unless they have something socked away or can qualify for legal aid they will not be properly represented by a legal practitioner or someone appointed to act on their behalf.

An aggravated prison offence is a serious matter, it could constitute assault, riotous behaviour, attempted escape, possession of drugs, or unlawful possession of alcohol or firearms; and I would be the first to say that if a person were found guilty of any of the transgressions I have mentioned, he should be punished. However, my concern relates to the stage up to when a person is found guilty and it concerns me that these people

may not have legal practitioners representing them or will not have their cases heard in an open court.

I wish to deal with further comments made by the Criminal Lawyers' Association with regard to charges of aggravated prison offences. It believes that these charges should be heard in Courts of Petty Sessions. I will quote its further comments as follows—

> ... and, once laid, should not be withdrawn or substituted for a minor prison offence without the leave of a magistrate after explanation given.
>
> This would prevent allegations that a minor prison offence had been substituted for an aggravated prison offence in order to remove from public scrutiny details of an occurrence which might prove embarrassing to the prison authorities.
>
> A time limit within which a charge must be laid should be provided in order to prevent the possibility of intimidation of prisoners by any vindictive prison officer.

I put this point forward in regard to this clause although it refers to clauses 75 and 76 because the Law Society commented on it. With reference to clause 75 the Law Society made the following comments—

> In the hearing of charges of minor prison offences (clause 72(2)) the superintendent or visiting justice should be bound by the rules of evidence and the words "repetitious material" should be clarified.

With reference to clause 76 it made the following comments—

> Clause 76(1) which provides that a prisoner shall not be represented by a legal practitioner in proceedings relating to prison offences should be deleted. It is fundamental and essential that a prisoner who may be liable to suffer further punishment should be entitled to legal representation. No other legislation dealing with criminal offences denies this right.

Those are the views of the Law Society. Earlier the Minister indicated that the views of the Law Society would be given consideration and I presume this will be done before the Bill is dealt with in another place, but if the Minister is able to do so, he should deal with clause 70.

In order that this matter might be dealt with expeditiously I suggest to the Minister, with your indulgence, Sir, that we deal with clauses 70 to 76 together because they relate to the same matters. Firstly, in the case of a serious offence a prisoner should be able to seek legal representation. Secondly, prisoners should be able to have their cases heard in Local Courts rather than courts that are convened in the prisons. Thirdly, prisoners should be given the same punishment that they would receive were they not in gaol.

The Criminal Lawyers' Association makes the point that prisoners should have the right to elect for trial by jury in the case of an offence in regard to which, if it had been committed on the outside, such an avenue would have been available to them. I hope that when the Minister replies he will take this matter into consideration.

Mr HASSELL: In regard to the last point raised by the member for Fremantle about a trial by jury, I do not know whether he was suggesting that an aggravated prison offence should be subject to a trial by jury.

Mr Parker: No, in the case of some aggravated prison offences in regard to which, if they were committed by someone who was not in prison, and who would therefore be tried under the Criminal Code, that person would be entitled to a trial by jury.

Mr HASSELL: Apart from that point it is my understanding that the essence of the member for Fremantle's complaints about part VII is that an aggravated prison offence is not dealt with in open court and prisoners are not entitled to legal representation.

I can reassure the member for Fremantle that there is no problem in respect of either of those points. If he looks at clause 76(1) he will find the provision against legal representation applies to proceedings under this part before a superintendent or visiting justice. It does not apply as a limitation preventing legal representation for proceedings for an aggravated prison offence which would not be dealt with by a visiting justice, but would be dealt with by two justices.

Mr Parker: You are saying by two visiting justices.

Mr HASSELL: Well, they are not visiting justices, they are two justices. We have visiting justices who are appointed as visiting justices for the purpose of dealing with these and other matters within the prison system. The two justices referred to in clause 79 are alternative to a magistrate and they are not in my understanding visiting justices in the same sense.

Mr Parker: By virtue of clause 73 visiting justices could decide to determine the offence themselves.

Mr HASSELL: That relates to a minor offence.

Mr Parker: It says that when a charge of an aggravated prison offence is alleged to have been committed etc., a visiting justice may inquire into and determine the charge as a minor offence.

Mr HASSELL: As a minor offence, but only as a minor offence. In this case a charge is in relation to those minor offences only and a visiting justice can only impose penalties that apply to minor offences.

Under the provisions of clause 79, where a complaint is made before a magistrate or two justices against a prisoner charged with an aggravated prison offence, the magistrate or justices shall, in a summary way, inquire into and determine the matter of the complaint. There are several points to be made. Firstly the limitation of legal representation contained in clause 76 does not apply to the proceeding under clause 79. The second point is that by virtue of determination of the High Court of Australia, in the case of Stratton *v.* Parn and others in 1977, it was determined that the matter should be dealt with in open court in the usual way. It is my understanding and advice that aggravated prison offences should be dealt with in open court in accordance with the provisions of the Justices Act with the right of representation which normally applies and with the same rights of appeal as normally apply.

Clause put and passed.

Clauses 71 to 76 put and passed.

Clause 77: Imposition of penalties by superintendent—

Mr PARKER: Concern has been expressed by the department of social work and social administration of the university in relation to this clause. A letter from that department reads as follows—

> Under sections 77 and 78 (pages 46-47) the penalties for so called minor offences by prisoners vary in nature and severity whether determined by the Superintendent or a Visiting Justice. The former has much more flexibility than the latter. In the case of the Superintendent referring to a Visiting Justice perhaps this is understandable. Under section 72 (page 44) where a Visiting Justice may inquire into and determine any charge of a minor prison offence, does this mean that where a prisoner has been so charged and punished, that a Visiting Justice can then impose a new penalty on top of the one perhaps handed down by the Superintendent?

It is my understanding that that would not be possible and I would appreciate the Minister's assurance that he does not interpret this clause in the same way as does the department of social work and social administration of the university.

Mr Hassell: I do not think I have got the point you are making.

Mr PARKER: The point I am making is one that has been raised by the Department of Social Work and Social Administration of the University of Western Australia. The department is concerned that a visiting justice can provide a penalty on top of what has been imposed on a prisoner by the superintendent.

That is not how I interpret the provisions of this clause and I would appreciate the Minister's advice.

Mr HASSELL: I still do not take the point that the member for Fremantle is making. If he is saying that the provisions of clauses 77 and 78 apply to the same offence, it is my understanding that there is no possible question of that. If anyone tried to do so he would find himself issued with a Supreme Court injunction before he had time to get to the court. It would defeat the provisions of the Criminal Code which apply in the absence of an expressed exclusion. Certainly that is not the intention. It would be a major drafting deficiency otherwise. I refer to the opening words in clauses 77 and 78. They could not be read cumulatively.

Clause put and passed.

Clauses 78 to 82 put and passed.

Clause 83: Grant of permit for absence—

Mr PARKER: The Civil Rehabilitation Council has raised two issues of concern. One relates to the definition of the term "near relative". Bearing in mind the different cultural backgrounds of some of the prisoners, "near relative" may not be regarded as meaning the same thing as it would to many of us. It may be an unduly restrictive provision in terms of some of the cultural backgrounds, and most particularly with regard to Aboriginal prisoners who may regard near relatives as people who, by western standards, are not relatives at all.

Because of kinship structures in various communities, a "near relative" may not be a person we would normally recognise as a near relative. This may be a matter for more sympathetic administration by the department; but I understand that the Civil Rehabilitation Council has not received sufficient co-operation from the department in this respect. Either the department's attitude should be changed, or we

may need to amend the provision. One hopes it will not be necessary to do that, but the clause does not make full provision for near relatives. I understand the problems inherent in amending the clause, so it is really a matter of more sympathetic application by the department.

The second point is that the birth of a prisoner's child should be a condition for the granting of a permit for an authorised absence. That can be catered for in subclause (2) (c) if the Chief Secretary considers sufficient grounds have been shown. However, that is not wide enough.

One hopes that a woman prisoner would be allowed some latitude in the case of the birth of her child; and in the case of a male prisoner whose wife or *de facto* wife was having a child, there are grounds for allowing that to happen. Increasingly these days gynaecologists encourage the presence of the father of the child at its birth. I am sure many of us have experienced that, and it is a magnificient experience for the father. In relation to the mother, and ultimately the child and the bonding process for the child, this is important. I will not go into details, but it is encouraged by gynaecologists.

Mr Davies: Some fathers have been known to faint!

Mr PARKER: For some fathers, it may be more of a punishment than their staying in prison! Nevertheless, if they want to attend the birth, that should be a ground for release.

From the point of view of the mother, the time of having the child is a fairly traumatic one. It would be appropriate, for the welfare of the mother, that the prisoner be given leave of absence. I am aware that the Chief Secretary can allow that under subclause (2) (c), but I ask him to indicate his attitude on this.

Mr HASSELL: I will not do it today because it would delay the Committee unduly, but on some appropriate occasion I am prepared to deliver in this Chamber a paper on how many special arrangements apply within the prisons system for Aboriginal people.

I am surprised by the suggestion of the member for Fremantle that there are not adequate arrangements in relation to near relatives. The department is at pains to recognise that our very large Aboriginal prison population does not see relationships as they are regarded by Europeans. For example, the uncle of a child may be much more important in an Aboriginal setting in terms of the upbringing of the child than is a parent in a European setting.

Not only is the department aware of these things and following practices in relation to them, but also it expends considerable sums of money in providing transport to enable prisoners to visit people whom they regard as "near relatives". If it can be claimed that the department has not done what should have been done, I am happy to have such instances brought to my attention, because that would be against the policy of the department. In fact, the policy is all the other way; but I will not go into detail now.

As to childbirth, the department is extraordinarily liberal in all these matters. It is liberal to the extent that, quite frankly, I question on occasions the amount of money involved in providing for escorted leave.

When one considers the programme of authorised absences from prison which are involved in part VIII of the Bill, one has to bear in mind that we are dealing with escorted leave for prisoners, some of whom have a high security rating.

Mr Parker: What does the escort do when the prisoner is attending the birth of his child?

Mr HASSELL: I am not sure. I assume that he stands outside. If I were the escorting officer, that is where I would stand.

I am surprised at the member's comments, because the department has very liberal policies on these matters. We intend that these policies be recognised and regulated properly. I have had occasion to question the cost of some of those policies, because we are paying overtime for escorts for quite lengthy periods. I have had cause to question the security arrangements because the provision of escorts has been an issue, as the member for Fremantle has acknowledged

I have been mindful of that and anxious to get the department to bring these matters under control. If they are not brought under control and prisoners are wandering off willy-nilly and assuming they can go off unescorted because they are going to the birth of a child when in a calmer moment they might even dispute paternity, difficulties could arise.

Clause put and passed.

Clauses 84 to 91 put and passed.

Clause 92: Consequences of revocation of leave of absence—

Mr PARKER: This matter was raised with me by the Civil Rehabilitation Council and it relates to subclause (6). I refer members to the wording of that subclause which results in no discretion being made available.

I can understand a situation in which the Minister or the director might want to exercise discretion in terms of giving a permit for leave of

absence to anyone in the two circumstances set out.

Mr Hassell: It says, "Except with the approval of the Minister". He can still grant it.

Mr PARKER: But it has to go to the Minister.

Mr Hassell: Yes.

Mr PARKER: I am not sure that is the sort of situation in which the Minister should be involved. It seems to be a very routine matter which could have been left to the director to exercise his discretion. Perhaps it should not be left at superintendent level, but it would be quite adequate for it to be left at director level. He could exercise discretion in regard to people who had had their leave of absence revoked or whose parole had been cancelled.

Perhaps because we are operating in a rather small State, the Minister can get involved in all these matters; but while I appreciate the Minister has a role in determining policy and making sure public servants carry out that policy, as he has said so frequently, and I agree with him, whether this sort of day-to-day administrative procedure is a question of policy or whether it is something which is of importance to the Government is debatable.

I appreciate it might embarrass the Government if someone were released on leave of absence and escaped and it was discovered later he had escaped on a number of occasions. However, we must trust the director and allow him to exercise discretion in that way.

The second point I wish to raise with regard to subclause (6) concerns someone who has been on parole and whose parole is cancelled for any reason. In that case there should be some time limit as to when the cancellation may continue to have effect with regard to this clause.

A person may have been on parole many years previously and it may have been cancelled for any reason which might not have anything to do with security. It might be to do with failing to report or committing some other offence such as an unrelated traffic offence. Therefore, it seems to me—this is certainly the point put to me by the Civil Rehabilitation Council—there should be some time limit on parole cancelees, if I may call them that, who fall within the provisions of subclause (6).

I do not disagree the Minister may well wish to exercise discretion in this regard and, of course, there is always discretion in any event; but I believe subclause (6) is really unnecessary.

Mr HASSELL: Briefly in reply to the member for Fremantle I want to make the point that these provisions relate to the first time that leave of absence in regular cases shall not come to the Minister, so I hope we are eliminating ministerial involvement in the great majority of cases, because they are basically of an administrative nature.

The reason that, over the years, it has been left as it is has simply been that the Act has never really laid down and defined the conditions and rules. I believe leave of absence was introduced in 1969 with the minimum of statutory requirements and all the rules relating to leave of absence, which is one of the areas of privilege and not of right, were left to the consideration of regulations, practices, and directions.

Since leave of absence was first introduced, significant changes have been made in policy and rules relating to it which have never been referred to the Parliament. One of the matters I have said will apply in relation to this whole area is that the new Prisons Bill will lay down the rules for leave of absence and they will be rules which will be changed only by statutory amendment in the Parliament.

Mr Parker: I appreciate that.

Mr HASSELL: I have found it necessary to say very firmly that when we are dealing with what is a privilege situation and not a rights situation as we are with leave of absence, because it has never been suggested it is or should be other than a privilege, a prisoner who breaches that privilege has to be specially considered before he is granted a further privilege.

Subclause (6) is intended to provide for the special reconsideration which arises where a prisoner has breached a privilege. It is one of the deficiencies in the present rules and regulations that prisoners who have long records are still granted privileges in relation to leave when it is quite clear the purpose of the privilege which is to provide for rehabilitation, reintegration into the community, and the opportunity for the prisoner to become a useful and law-abiding person, is not working.

Mr Parker: All I am saying is, are you not satisfied with the way in which the director exercises his discretion?

Mr HASSELL: No; I am saying the provisions which have grown up are somewhat more loose than they should be and the whole matter should be tied into statutory provisions. The member might say this exceptional circumstance should be subject to the director. There is a role for ministerial discretion in certain areas where we go outside the basic guidelines and the Minister should be involved where a person who has been

given one or more chances is being considered for this sort of privilege.

It would be almost impossible to make the kind of qualification the member for Fremantle referred to in his second point. He mentioned a qualification on the period between the breach of parole and the time when that breach may affect the prisoner's consideration for further leave of absence. One can assume that would be taken into account in the advice which a department would give to a Minister and it would be considered also by the Minister in determining the special circumstances.

Clause put and passed.

Clauses 93 and 94 put and passed.

Clause 95: Preparation and implementation of activity programmes—

Mr PARKER: The fact that this is the only clause which exists in this area, and bearing in mind the small number of paragraphs in it, indicates how serious the Minister is about providing welfare programmes for prisoners in Western Australian gaols.

I am concerned that the provision is so inadequate. As I pointed out to the Chamber during the second reading debate, the British Parliament, and I understand other western European Parliaments, make much greater reference to rehabilitation programmes in terms of the division of time and money allocated to these matters.

As the Minister acknowledged, some of the problems in some of our gaols presently, particularly the Fremantle gaol, relate to the fact that prisoners do not have anything to do and that creates tensions and difficulties. Certainly, as I said in my second reading speech, this does not help in the rehabilitation process and it could have a reverse effect.

There are a number of aspects of clause 95 to which I want the Minister to give consideration. I do not understand, for example, why it is suggested that no direction is given to the director to provide services whereas there are countless other occasions in regard to administrative, disciplinary, and inquiry matters where by virtue of the use of the word "shall" the director is obliged to underake certain actions, but in regard to superintendents or prison officers, there is no obligation upon the director that he "shall" provide these services and directions.

The point I am making is that the Bill provides directorate provisions in very specific order and minute detail to the director in so far as how he should run the department, but, in the area which provides welfare programmes to prisoners, no direction whatsoever is given, but it is a vague matter of discretion. I am sure there is some logic to that and it would be more logical if some of the other aspects of the Bill also gave the director that sort of discretion rather than direction.

May I take this opportunity to advise the Minister, if he is available now, of some of the issues of concern? People living in prisons fall into the category of prison welfare. Again the Civil Rehabilitation Council which, as the Minister would be aware, was very concerned with the welfare of prisoners, is supported by the Government, and is a very valuable organisation indeed, has raised some of these matters with me and others have been raised independently with me by other people.

One of the points raised was in relation to Canning Vale where there is virtually no public transport. There is one bus to Canning Vale at some time in the morning, but no other public transport. I have been told of people who hitch-hike to Canning Vale because it is the only way they can get there. In most cases, spouses of prisoners are hardly able to own cars or have the sort of money needed to run them. Many of them would not have any access to those sorts of things.

I suggest to the Minister that one of the matters to which he ought to give serious consideration is the question of access to public transport for prison visitors, especially when the number of prisons outside the built-up metropolitan area will increase, instead of our having only Fremantle, Canning Vale and Bandyup; it is very important for public transport to be provided whether by the Department of Corrections itself or the MTT under some arrangement with the department. From the MTT's point of view it would not be a profitable enterprise and if any loss is to be incurred in the running of that public transport it should be borne by the Department of Corrections and not by the MTT. It would be most unfair for the MTT to have to bear a loss for something which is a welfare system provided by the Department of Corrections. Ministers should give serious consideration to ensuring that public transport is available.

I am advised that, for example, no access by public transport is available to Bandyup Prison. The inmates of that prison are all women, many of them Aboriginal. It has been suggested that one of the things to which attention has not been given in this Bill is the problem spouses of prisoners have in relation to that prison. Wives of male prisoners elsewhere also have serious problems.

I get many women coming to see me in my office to obtain State Housing Commission accommodation in or near Fremantle so that they can be close to their husbands or boyfriends who are in Fremantle Prison. That is becoming increasingly difficult as accommodation available through the State Housing Commission in my area dries up. It seems to be exclusively me whom they come to see to obtain accommodation and it seems no attempts are made on their behalf by people within the prison system. If the prisoners are to be in Fremantle Prison for a considerable time, they will want to have their wives and families within close access to them. It is something to which the Minister and the department should give greater consideration so that all gaols are accessible by public transport.

Some form of prison transport system has been in operation, which is, to use the words of the Civil Rehabilitation Council, an archaic system and does not fulfil any of the needs. In respect of Wooroloo Prison, the bus leaves from Mundaring, whereas it would be better for it to leave from the centre of the city, stop in the Midland area, then continue on to Mundaring and Wooroloo. If a bus is going to go to Canning Vale, it could leave from Perth or Fremantle and make stops along the way at the shopping centres in order that people might catch it. This is a very important welfare provision which will create happier prisoners, and the families also will be happier, when they are able to visit their relatives in gaol.

I am told those people who have access to cars—some mothers or wives on supporting mothers' benefits—are spending in excess of one-third of their incomes on petrol simply to visit their husbands or boyfriends in prisons. It must be very difficult for them.

The Minister has stated in the Press several times that he is a family man who believes in the maintenance and strengthening of the family unit and in the nature and role of the family in society, and yet under the department which he administers he makes it virtually impossible for people—I am not suggesting families can be maintained in the ordinary way—to have access to their families by virtue of the fact that there is no adequate public transport of this type available to spouses of prisoners.

Mr HASSELL: Some of the attacks which have been launched on part 9 of the Bill relating to welfare programmes for prisoners again have been misguided and unfair when it is recognised and realised that here for the first time we are putting a specific provision into the Bill which does not exist in the present legislation for these types of services to be provided under the umbrella of a statutory authority. I do not want to belabour the point because the member for Fremantle knows as well as I do that the department has a very comprehensive support services programme covering education, welfare of all kinds, social workers, psychologists, counsellors, people who deal with prisoners' families, people who assist them with their problems experienced with prison life, people who try to minimise the effects on prisoners of institutionalisation, and so on. None of those programmes is to be reduced or diminished and it is not appropriate to say that we should have in this legislation the kinds of provisions which apply in the United Kingdom and ignore what we already have because we have the Offenders Probation and Parole Act which deals with an aspect of that.

As the member for Fremantle mentioned, we do support the Civil Rehabilitation Council. A great deal of support is given in other areas and in other ways. It may be that not before too long, if the kinds of plans we have in mind come to fruition, we will need prisons industry legislation quite separate from this measure, but that is in the future. Here, for the first time, we have included provisions that give statutory base to the furnishing of many services at very substantial cost—provisions which have nothing to do with simply the locking up of prisoners.

So much of the public criticism we hear from some of the groups is just ill-informed and prejudiced and is not based on knowledge or understanding, or with any idea of sympathy towards the department. Some of the remarks made last night on the Nationwide programme by one of the members of the Criminal Lawyers' Association (Mr Wallwork) illustrate this point. Mr Wallwork purported not only to represent the association, but also the very much broader and wider legal profession. It was clear from his remarks that he had not studied the Bill very well, and even clearer that he did not understand the breadth of the work of the department, and did not have any sympathy with understanding it.

Someone like Henry Wallwork who is, in general, a very sympathetic man, and a man who has much regard for people and their well-being and welfare, has a duty to consider such matters a little more broadly than he has done.

As for the Civil Rehabilitation Council which the member for Fremantle mentioned, I did receive a letter from this organisation. That letter has been considered, although no decision has been made about it yet. Again, the member for Fremantle appears to have received much more advice from this council than I have, and I

wonder why the council did not think it appropriate to give me the benefit of its broad advice instead of giving it just to the member for Fremantle. After all, I have responsibility for the Bill, as the member does, and perhaps a little more responsibility than he because it is a Government Bill.

The member for Fremantle raised the matter of transport. I have no doubt that this is a problem in some areas, and there is not much we can do when private transport is involved. The department is most sympathetic about the placement of prisoners, and wherever possible, within the constraints of the institutions available and the security ratings of the prisoners, efforts are made to meet requests. It is not always possible to make the placement which would be the most satisfactory to the prisoner concerned. I do not know about Bandyup Prison, but I am aware of some transport problems to Canning Vale. I assume that when the 248-bed Canning Vale Prison is commissioned by the Premier later this month and then commences operation, the extent of the transport service required will be such as to justify a more regular bus service, or a special arrangement.

Mr Parker: Are you saying that you are not willing to make your own transport arrangements or to at least subsidise the MTT if that body cannot economically justify a service?

Mr HASSELL: That is not what I said at all. I said that when more prisoners are there, it will be much easier for the MTT to supply a service. If that is not possible, we will then have an obligation to look at the matter. We cannot always supply a perfect service when a small number of people are involved, but up to 90 people are now accommodated at the remand centre, so I acknowledge that there is a problem. The department is not unaware of that fact, nor unsympathetic towards it, and neither am I.

Clause put and passed.

Clauses 96 and 97 put and passed.

Clause 98: Disciplinary offences—

Mr HASSELL: I do not want to preclude anything the member for Fremantle has to say, but as I have an amendment on the notice paper in relation to this clause, it may be appropriate for me to move it now. I move an amendment—

> Page 60, lines 16 and 17—Delete the words "disciplinary offences shall be" and substitute the words " a charge of a disciplinary offence shall be laid and ".

The purpose of this amendment is so that subclause (2) shall read—

> It is the intention of this Part that disciplinary offences shall be laid and dealt with expeditiously.

This amendment is in response to representations made by the Prison Officers' Union. A number of representations have been made by that union in relation to this part of the Bill, and that is understandable because it relates to the discipline of prison officers. That is a matter for the concern of the union, and it is properly within its responsibility.

As I said before, many of the union's requests were acceded to before the Bill was introduced; notwithstanding that, with one exception, we have included all the amendments which were suggested by the union.

This particular amendment relates to dealing with disciplinary offences. The union wanted assurance not only that such offences would be dealt with expeditiously, but also that charges would be laid expeditiously. The union sought to have incorporated in the Bill provisions that apply presently under the regulations, and which require that a charge be laid within 48 hours of an alleged offence. That is one of the major deficiencies of the present disciplinary sections of the Act. Firstly, it is not always possible to determine the precise time at which an alleged offence occurred, and, therefore, it is not always possible to calculate precisely when the 48-hour period will elapse. Secondly, a period of 48 hours is not always sufficient to deal with such a matter, particularly when officers go off duty and may not be available to be charged.

The union representatives made it clear to me that they would rather officers not be dealt with and charged in their own homes, and I understand that attitude, although on occasions it may be necessary. However, it is necessary that we should have a reasonable opportunity to lay charges. It is unfair to prison officers themselves if a prison officer who is guilty of an offence gets off through a technicality while others are penalised. It is proper that we should have a more open-ended provision.

At the same time I accept that the concern of the union is genuine when it is suggested that if someone has a "down" on an officer, charges may be left lying in a drawer until many charges can be laid at the one time. Such a course is not proper, fair, or reasonable, and we do not want it to happen. I want to make it clear that it is the intention of the part that charges in regard to disciplinary offences be both laid and dealt with expeditiously.

As we are moving into the disciplinary clauses of the Bill, I would like to make this general comment. Discipline remains separate from judicial proceedings. Discipline should be recognised as a separate procedure that is fair, just, and essentially terminate. It should not go on to become a more and more complex legal procedure, subject to all the formalities of the law which would apply if a person's life were in jeopardy, or if he were likely to be thrown into gaol. That is not the case, and it will not be the case. As I say, with one exception, all the amendments are the direct result of representations made by the Prison Officers' Union, and I think the amendments fairly meet the points raised by the union, especially when we consider the other concessions which were made prior to the introduction of the Bill.

Mr PARKER: The amendment is certainly an improvement on the existing provision, and to that extent we support it.

However, another issue relating to subclause (2) concerns me, and the Minister did not refer to it. I understand the points the Minister has made and the points the union has made with regard to all these matters which involve similar constructive provisions in a Statute. We must have regard for the fact that the people who will be administering these provisions are lay individuals—for the most part it will be superintendents or deputy superintendents who will administer this part of the measure, and these people may not have a great understanding of legislation generally, and certainly not a great understanding of legal concepts.

I am worried about the words "dealt with expeditiously". A lay person, operating at that level of the department, may feel it is more important to get something done quickly than it is to ensure that justice is done, and that it can be seen to be done. This is not something for which it is very easy to legislate, and I appreciate that point.

I can understand that both the department and the union have a desire to make sure that charges are not left pending, but it seems to me that other provisions could be written into the legislation in regard to the period of time involved. It seems to me to be very important that charges should be laid very shortly after an alleged event, and not, as the Minister said, left hanging around to accumulate in a drawer. It is also important that charges should be heard expeditiously. We must remember that a prison officer may be suspended until a charge is heard, and it is rather worrying to have a charge hanging over one's head. It concerns me that the people who will be administering these provisions may regard the instruction towards expedition to be more important than the overriding responsibility that they have to make a fair and proper determination of the charge.

I do not know whether the Minister has considered this point. It seems that other provisions relate to this level of disciplinary charges against prison officers and the administration must have regard for the basic jurisprudential aspects of its work.

Mr HASSELL: This matter has been examined carefully and considered by me because it was the point put forward by the President and the Secretary of the Prison Officers' Union. I do not have any real concern about it. I understand the point made, but it is very hard to draft such a provision precisely so that it covers all possibilities.

When I say I have no concern about it, I mean that I am not concerned that any likely prejudice will result, and this is for two reasons. Firstly, disciplinary proceedings are subject to appeal. So if any injustice occurs at the first level, there is in relation to such offences an appeal to the director or to the tribunal which is to be re-constituted at the request of the union. Secondly, we are dealing with legislation which is subject to the courts and to the law of the land. If any serious or significant issue of natural justice arises, there is no restriction on the intervention of the Supreme Court or another appropriate court in relation to those proceedings. The courts have not been slow to intervene in relation to discipline as it affects the employment of people, and the courts require that the rules of natural justice are followed.

If a proceeding were expedited beyond the point of natural justice, undoubtedly and unquestionably a court would intervene.

One of the difficulties that arises in one area of disciplinary proceedings under the present legislation is the requirement that natural justice be done, but it is not always provided for. Our objective was to make the provisions in the legislation explicit, and we have done that. Nevertheless, such matters are still subject to purview and consideration by the court.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 99: Laying of charges against prison officers—

Mr PARKER: The Prison Officers' Union has raised a number of queries in respect of this clause which the Minister has not been seen fit to recognise by placing amendments on the notice

paper. The Minister has dealt with one area of concern, which is the matter of charges being laid within 48 hours of alleged offences. While I can understand the concern of the Minister about the precise nature of the 48-hour time period, there should be some way of providing that these charges be laid quickly. I appreciate that to some extent, what we have just passed may have that effect. However, there should be a definite period so that if, after a certain period has elapsed, a charge has not been laid, the charge may then not be laid. The time period could be, say, 10 days after which period the legislation would expressly prohibit the laying of a charge. Clause 98 does not have to operate in this way; it is only the intention of the Government.

The second point raised by the union is not similarly affected by the Minister's allegations about the difficulty of establishing the date of the offence. The matter raised is in relation to clause 99 (1) (c), to which I draw members' attention. There is no question that the date on which the superintendent receives a charge easily can be ascertained. The superintendent then must validate the charge. We might find the situation in which the officer preferring the charge had done so within a short period, but the charge then remains on the superintendent's desk for some time before being validated. The Bill should impose on a superintendent a set period within which to validate such charges.

The third point is that any charge laid against a prison officer having been so made and validated, should be handed to the officer within a short period. The union suggests it should be handed to the officer concerned when he is next on duty. I understand the current regulations provide that if a charge is made prior to an officer going on holiday, it cannot be provided to him until he returns to work. The legislation provides no time by which the prison officer is required to be given the charge. The Minister acknowledged the desirability of not providing these charges to people at home. We must bear in mind these are disciplinary and not criminal charges, and should be dealt with in the work environment, preferably when the officer is on duty. That is the current position in the Act and the regulations and I do not know why it is to be changed.

The fourth point made by the union relates to subclause (1) (e) to which I draw members' attention. This gives the sole discretion to the superintendent as to when a charge shall be heard. The disciplinary proceedings cannot be heard during a prison officer's absence on leave. We must bear in mind these are disciplinary provisions, and it is appropriate they should not be heard until he returns to work. It would not be a charge in which the community as a whole would be interested. The same restriction should apply; the charge should be heard only during the time the officer concerned is on duty.

In addition, the officer should have some say in determining the date of the hearing. After all, the lawyer of a client facing criminal charges has some opportunity to determine when a charge shall be heard; but it appears prison officers are not to be given this right.

The fifth point raised by the union relates to the specified time within which an officer admits or denies the truth of the charge. The current practice is that many of these charges are not heard in the traditional sense, but, rather, the superior officer receives a written statement from each of the interested parties, reads them and compares them, and makes his determination.

That being the case, it is important that sufficient time be given to the prison officer concerned to get together his defence or establish his attitude towards the charge laid against him. The suggestion contained in clause 99 (1) (d) that the officer should state in writing within 48 hours whether he admits or denies the truth of the charge is bad, even if a proper hearing takes place and even if he merely says, "I admit the charge" or, "I deny the charge". People facing criminal charges receive much more lenient treatment than that. However, if the answer required to be given is not a simple "Yes" or "No", but rather, a statement from the officer outlining why he admitted or denied the charge, a considerably greater period than 48 hours needs to be provided. The Prison Officers' Union suggests that the officer concerned be given a minimum of seven days before being required to reply to the charges made against him.

The Minister said the Prison Officers' Union could not expect him to accept every recommendation it put forward. However, its recommendations in this respect seem logical and sensible; they will not interfere with the administration of the prison system, and will give a greater ability and right to prison officers in such cases.

Subclause (4) provides for an inquiry to be held not earlier than three days after the denial of the truth of a charge laid against an officer, or where the officer has failed to admit or deny the truth of the charge within the specified time. The union is of the view that the person charged should be given three days' notice in writing of the date of the hearing. Three days seems to be a short period. I could not conceive of a situation in

which less than three days would be involved; it would seem to me that on most occasions a longer period would be involved. Even in the less serious cases, I could not see any possible justification for hearing the charge less than three days after the officer concerned had replied to it. I do not see any administrative problems in requiring the department to give such written notice to the officer concerned.

I would have suggested a much longer period than three days; nevertheless, that is what the union suggested, and I am happy to go along with it.

The final point is that the union wishes to have incorporated in the Bill a provision currently in the regulations. The Minister has indicated it is his intention to incorporate in the legislation a number of practices which have developed. Regulation 36(3)(c) states—

> An officer shall not be compelled to give a written explanation either before or after he is charged until an inquiry is held.

That seems to be a perfectly valid provision and I can see no reason for the Minister's not accepting the union's requests. I suggest he give this matter more serious consideration.

Mr HASSELL: We are simply going over the same ground we have gone over before; we are not really talking about anything of substance.

In regard to the time limits, the fact that charges cannot be dealt with except in certain cases and places already is contained in the regulations and is part of the reason the Act is being changed. The time limit provisions, in practice, have been found to be "trip-ups" in dealing with disciplinary offences. We have so many technicalities that we cannot get some of these offences dealt with. We have seen officers go away on leave for long periods coinciding with the time of the laying of disciplinary charges, and the charges have hung around, not being able to be proceeded with; it is quite bad for the system; it is bad for the officer concerned.

It is not, and never will be, our intention to set out to "get" people or hear charges when they are not present. If that practice were followed, the overview of the courts would protect the officers.

The point is that writing in all these time limits and procedural requirements effectively has stopped discipline working. There is a fundamental inconsistency in the position the member for Fremantle is adopting now and that adopted by union representatives. On the one hand, they informed me how powerfully determined they were to have disciplinary offences laid and dealt with expeditiously, which we accepted and wrote into the legislation, while on the other hand they seek the inclusion of all sorts of time limits and the extension of time limits already included in the Bill which would ensure matters are not dealt with expeditiously.

If we look at these disciplinary provisions as a whole, without getting hung up on what presently is done under the regulations, they will be seen to be fair and just provisions containing adequate rights of hearing, appeal, and review. They are in the Act; they are subject to court overview. There is nothing in them that anyone can point to and say is unfair or prejudicial.

It would not be the intention of the department to serve a notice on an officer at home, but there may be a need in particular circumstances. It would never be the intention of the department to prevent an officer taking an overseas trip he had planned. Except in most extraordinary circumstances, that would not occur; but there could be an occasion where the future of the officer's employment was at issue. It might be an important matter that needs to be dealt with expeditiously, regardless of any plans the officer may have.

It is not correct, as the member for Fremantle said, that an officer has a choice of the date of his appeal. The date is determined by the tribunal. There may be some negotiation and that is exactly what would happen here in practice.

I cannot accept that we should write into this Bill all the benefits of the new system plus all the benefits from the existing system which would allow the union, on the basis of a technicality, to get alleged offenders off. This cannot, and should not, be done.

Clause put and passed.

Clause 100: Procedure for inquiries into disciplinary charges—

Mr HASSELL: The representatives of the Prison Officers' Union have, on more than one occasion, objected to subclause (2). Quite frankly for reasons I cannot understand, although they have raised the point that the proceedings are conducted by a layman, they do not like the layman to have a discretionary power about what evidence may be presented. As a result of those representations I have submitted the amendment which appears on the notice paper covering disciplinary proceedings applying to prisoners.

The fact of the matter is that there has to be a degree of discussion as to what may be permitted. We have some advocates in the system who tend to stray a little from the point and to take their advocacy to extremes of repetition and hyperbole.

There is need for some restraint to be able to be exercised by the presiding officer.

We have to bear in mind that we are dealing with discipline, something that should be dealt with expeditiously for the good of everyone. We are not trying to be unfair to prison officers. I move an amendment—

Page 61, lines 33 to 37—Delete subclause (2) and substitute the following—

(2) In the conduct of proceedings under subsection (1), the superintendent shall not be bound by the rules of evidence but may admit any evidence which in his opinion is relevant to the charge and may decline to admit repetitious material.

Mr PARKER: In his introductory remarks the Minister indicated he was not convinced that this amendment was necessary and was moving it only because it might be better than his not moving an amendment at all. Frankly I do not see how the amendment will change anything at all. The only real change is that the superintendent will not be bound by the rules of evidence, but may admit any evidence which is, in his opinion, relevant to the charge.

It seems that the nub of the problem at which the union is trying to get relates to repetitious evidence which the superintendent may refuse to admit. If that is the case there needs to be an opportunity for a review by a court. If this amendment is accepted and the evidence is considered not to be relevant, not by any objective criteria, but merely in the opinion of the superintendent, that is not something in which the courts can interfere.

Mr Hassell: That is not how it is drafted.

Mr PARKER: I think it is. The superintendent shall not be bound by the rules of evidence and may refuse evidence which, in his opinion, is not relevant to the charge. If he does not admit something that is valuable and relevant and the matter is taken to the Supreme Court, his opinion could be overturned. But concerning his determination of what is and is not relevant, it would seem that if the Minister were to delete the words "in his opinion" this would meet the requirements of subclause (2). This would mean the superintendent's opinion could be objectively tested by a court. The Minister laughs, but that is what could happen.

If the Minister's amendment is accepted, a superintendent could say that, in his opinion, something is not relevant, and this would be an exercise of his opinion which was not judicially reviewable. If the words "in his opinion" were deleted, his opinion would be reviewable. I fail to see why the Minister cannot understand this important point. It would seem to me that by the simple expediency of deleting the words "in his opinion" the superintendent's decision would be judicially reviewable.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 101: Legal representation not permitted—

Mr HASSELL: I move an amendment—

Page 62, line 1—Insert after the words "prison officer" the words "or an officer".

The purpose of this amendment is to make it clear that neither party to disciplinary proceedings may be represented by a legal practitioner.

Mr PARKER: This amendment is in direct response to a submission made to the Minister by the union. We support it.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 102 put and passed.

Clause 103: Appeal to Director—

Mr HASSELL: I move an amendment—

Page 63, line 5—Delete the number "5" and substitute the number " 10 ".

The purpose of this amendment is to allow an officer who has been convicted of a disciplinary offence 10 days, rather than five days, in which to appeal. The reason is that the union made a submission to us that because of the requirements of subclause (4) that such a person should state the grounds of his appeal, five days is inadequate for the preparation of those grounds. The Government considered 10 days was reasonable although the union had asked for 14 days. We thought this was too long bearing in mind it is very much our objective to ensure that discipline is wrapped up and dealt with quickly, for the good not only of the system itself, but also of the officers charged with disciplinary offences. Discipline should not hang over the heads of the officers or the system.

Mr PARKER: I can understand the desire of the department and the union not to have disciplinary matters hanging over everyone's heads. By the same token it seems to me that a prison officer charged with a disciplinary offence related to his work environment should not suffer worse conditions than those applying to criminals who have allegedly committed an offence. I understand criminals have at least 14 days in which to appeal against any determination by a judge or a magistrate. It seems strange, therefore,

that the Minister should decide on 10 days rather than 14 as requested by the union.

The second point with which this clause deals was not referred to by the Minister; namely, what is to be made available to a prison officer at the time he institutes his appeal. An appeal to the director has to be in writing. Does this notice of appeal have to be a full notice or simply an indication of an intention to appeal? Is it the Minister's interpretation that the officer simply notifies the director that he is to appeal without setting out the grounds for the appeal?

Mr Hassell: Subclause (4) applies. The grounds must be stated, and the time has been extended to meet these requests.

Mr PARKER: If the officer is to be given only 10 days, it will be interesting to know whether he will have the resources available to him to meet the requirements of subclause (4). The resources I refer to are the transcript of the proceedings and a copy of the decision or determination.

Mr Hassell: There will not always be a transcript.

Mr PARKER: If it is intended that there will not always be a transcript, how is it intended that an officer will fulfil his appeal? I understand that at the moment transcripts of proceedings are available.

Mr Hassell: They are to some extent. The transcript usually means a complete word-for-word account.

Mr PARKER: What about the situation that applies in most magistrate's courts where the notes of the evidence made by the magistrate are made available?

Mr Hassell: They are made available, as I understand it, under the normal system.

Mr PARKER: Is the Minister saying notes of evidence will be made available?

Mr Hassell: The practice is that they are always made available.

Leave to Continue Speech

Mr PARKER: I seek leave to continue my speech at a later stage of this sitting.

Leave granted.

Progress

Progress reported and leave given to sit again at a later stage of the sitting, on motion by Mr Hassell (Chief Secretary).

(Continued on page 5840.)

QUESTIONS

Questions were taken at this stage.

DIAMOND (ASHTON JOINT VENTURE) AGREEMENT BILL

Message: Appropriations

Message from the Governor received and read recommending appropriations for the purposes of the Bill.

Sitting suspended from 6.15 to 7.30 p.m.

PETROLEUM (SUBMERGED LANDS) REGISTRATION FEES BILL

Second Reading

MR P. V. JONES (Narrogin—Minister for Mines) [7.32 p.m.]: I move—

That the Bill be now read a second time.

This Bill is incorporated with, and is to be read as one with, the Petroleum (Submerged Lands) Bill 1981 shortly to come before the House.

The Bill does not alter substantially from the present Act, except that it clarifies a legal point, and increases minimum and flat rate fees threefold.

The legal clarification is in respect of clause 4(5)(a) which now ensures that the relevant provisions of the legislation will apply to transfers of title held by several corporations, where two or more of the corporations are related, and not only to cases where all the corporations are related.

I commend the Bill to the House.

Debate adjourned, on motion by Mr I. F. Taylor.

PETROLEUM (SUBMERGED LANDS) BILL

Second Reading

MR P. V. JONES (Narrogin—Minister for Mines) [7.34 p.m.]: I move—

That the Bill be now read a second time.

This Bill will replace the Petroleum (Submerged Lands) Act 1967. The proposed legislation will control petroleum operations in the territorial sea off the coast of Western Australia, on the basis that such territorial sea width is three nautical miles. It complements similar Commonwealth legislation covering the exploitation of petroleum resources on the continental shelf beyond the territorial sea.

The Bill forms part of a legislative package which was agreed upon subsequent to the 1975 High Court decision on the Seas and Submerged Lands Act 1973 of the Commonwealth, which declared and enacted that sovereignty in respect

of the territorial sea and sovereign rights in respect of the continental shelf, for the purpose of exploration and exploitation of its natural resources, were vested in and exercisable by the Crown in right of the Commonwealth. This High Court decision, however, still left for settlement complex and contentious offshore constitutional issues.

In order to resolve these issues, at the Premiers' Conference of 29 June 1979, the Commonwealth and the States completed an agreement on a legislative package that would result in a return of the territorial sea to the adjacent State for the administration covering the exploitation of its resources without derogating from the Commonwealth's responsibility in matters of overriding national or international importance.

The legislative package will give to each State the same powers with respect to the territorial sea—including the seabed—as it would have if the waters were within the limits of the State.

To give effect to the package, Western Australia has passed the Constitutional Powers (Coastal Waters) Act 1979, and the Commonwealth has enacted the Coastal Waters (State Powers) Act 1980, and the Coastal Waters (State Title) Act 1980. The Commonwealth Acts have yet to be proclaimed.

Offshore petroleum operations outside the three-mile territorial sea limit will be governed by Commonwealth legislation alone. The Commonwealth Petroleum (Submerged Lands) Act 1980 has already passed both Houses of Parliament, and is awaiting the passing of the appropriate complementary State legislation—over territorial sea areas—before being proclaimed.

Under that Act, the day-by-day administration of the adjacent area beyond the territorial sea will continue to be in the hands of the designated authority appointed for the adjacent area of each State. The designated authority is a State Minister, and it will continue to be State officers who will administer the day-by-day operation of the Act.

However, this Commonwealth legislation will establish for the first time a joint authority for each adjacent area, consisting of the Commonwealth Minister and the State Minister, and these joint authorities will be concerned with decisions on major matters arising under the legislation.

In this regard, and by way of special consideration to Western Australia, the Commonwealth has agreed that its Minister on the joint authority will not exercise his power of veto in the case of a disagreement, unless he is satisfied that the decision proposed by the State Minister would endanger or prejudice the national interest.

The agreement provides also that the Premier may consult with the Prime Minister on the issue.

It is made quite clear here that the substance of the existing mining code will be retained, and that existing permittees and licensees will not be disadvantaged.

The Bill before the House will regulate petroleum operations inside the outer limit of the three-mile territorial sea. It will be administered by State authorities alone, and will complement the Commonwealth Act in that the common mining code will be retained and existing permittees and licensees will not be disadvantaged.

The Bill includes transitional provisions to cover cases where existing permits straddle legislative boundaries. When a permit or licence includes areas both within the territorial sea and beyond those waters, under the transitional provisions those permits and licences will be converted into two permits and two licences, each under the appropriate Commonwealth or State legislation.

Commenting specifically on the Bill, it will be noted that the main variations contained in the clauses of the Bill, as compared with the present provisions contained in the Petroleum (Submerged Lands) Act 1967, are—

> Preamble—this recites the new agreement between the Commonwealth and the State. It will be noted that paragraph (d) of the fifth recital refers to parties maintaining a common mining code for petroleum resources of the submerged lands that are on the seaward side of the inner limits of the territorial sea of Australia. This will ensure that offshore petroleum explorers and producers will carry on such operations throughout Australia within the framework of a consistent set of rules.
>
> Applications of laws—the provisions for applications of laws contained in section 14 of the present Act are not continued in this Bill. Rather, they are contained in the Offshore (Application of Lands) Act 1977, which applies the laws of Western Australia in the adjacent territorial sea. In this regard, State laws which are inappropriate to petroleum operations would have to be modified by regulations under the Applications of Laws Act.

Mining for petroleum—because it has been proved with 13 years' operating experience that the common mining code contained in the Petroleum (Submerged Lands) Act 1967 was a completely satisfactory legislative base for such operations, the decision was made to keep amendments to a minimum. This objective has been kept to the fore, and petroleum explorers and producers should have no problems in accepting the new legislation package.

Royalties—sections 42, 129, 130, and 143 to 151 inclusive, relating to royalty, are complementary to the legislation passed by the Commonwealth for the Commonwealth adjacent area, and are similar to existing legislation, firstly in respect of the rates of royalty to be imposed, and secondly to the extent that such royalty will be calculated on the wellhead value of the petroleum. It has been agreed that the Commonwealth-State royalty sharing arrangements which apply in the Commonwealth adjacent area will also apply to royalties collected pursuant to this legislation.

Monetary amounts and penalties—fees, securities, and penalties are updated over such amounts prescribed in 1967. Generally the increase is threefold.

I commend the Bill to the House.

Debate adjourned, on motion by Mr I. F. Taylor.

PRISONS BILL

In Committee

Resumed from an earlier stage of the sitting. The Deputy Chairman of Committees (Mr Nanovich) in the Chair; Mr Hassell (Chief Secretary) in charge of the Bill.

Clause 103: Appeal to Director—

Progress was reported on the clause to which the Chief Secretary (Mr Hassell) had moved the following amendment—

Page 63, line 5—Delete the number "5" and substitute the number "10".

Mr PARKER: I do not believe the Government has framed this clause in an appropriate way. Although the amendment improves the position to some extent, it does not completely remove the area of concern within the clause which provides the charging officer with the right of appeal against a decision which has been made. This is another area on which the Prison Officers' Union made submissions to the Government, but its submission in this respect was not accepted.

Currently, an officer charges another officer with a breach of discipline and if the officer charged is found guilty and is fined, there are various provisions which enable that officer to appeal and which enable the director of the department to review the decision.

However, the proposal in this legislation is that the charging officer also will have the right of appeal. It can be said that it is not unusual in terms of other forms of law, including industrial and criminal law, for a charging officer or the protagonist in a case to have the right of appeal. However, it is certainly unusual in the context of the disciplinary provisions which apply in the prison system.

The Minister said these disciplinary provisions were one of the reasons for the introduction of this Bill; they will enable the department to "get and convict" more prison officers than hitherto. It has become perfectly obvious that is the principal aim of the Minister.

The union believes that once a charge is laid and either is dismissed or a penalty is imposed, it ceases to be the concern of the charging officer; it becomes the concern only of the department and of the officer against whom a penalty has been imposed. We contend there should be no right of appeal to the charging officer.

The Prison Officers' Union asked for the deletion of subclause (2), but that has not been accepted by the Chief Secretary. That is another indication that one of the desires of the Government is to convict many more prison officers than it currently does. The Chief Secretary already has expressed his frustration at not being able to "get" more prison officers on disciplinary provisions. It is obvious that he is enacting legislation which will enable him to do that; and if he does not "get" them, he will have the position reviewed.

This is particularly important when one realises that the reviews considered, which will be asked for by the charging officers, will be made by the superintendents who have been chosen by the department. I understand the department has been dissatisfied with some of the decisions made by superintendents. That is notwithstanding that the department has chosen the superintendents. The department would like to have the charges reviewed by somebody else.

Let us remember that we are dealing with disciplinary offences and not criminal offences. It is a fundamental principle of natural justice that the charged officer should have the right to

ensure that his livelihood is protected by an appeal against the decision. In the case of disciplinary offences, there is no need for the charging officer to make an appeal.

That has not been demonstrated by the Chief Secretary in his second reading speech or in his comments on clause 103. The amendment ought not be proceeded with. It is of great concern to the prison officers.

It cannot be said that, as a result of the existing Prisons Act, there has been any breakdown in discipline on the part of the prison officers. To the contrary! The prison officers are a highly professional, disciplined, competent force. One could wish only that the rest of the Department of Corrections was as competent and as forthright in protecting the public interest as are the prison officers.

The proposals inherent in subclause (2) are abhorrent. They will do nothing to improve discipline in the force. They may undermine it by virtue of the fact that the officers will feel aggrieved at the attitude of the department towards them, rather than feeling that they are part of the department.

Yesterday the Chief Secreatry told us that, as far as he was concerned, part of the purpose of this Bill was to upgrade and enhance the role of the prison officers; yet when we come to these disciplinary provisions we find that the prison officers are being treated as if they were criminals themselves. The prison officers serve in the place of the public, who cannot attend the prisons to protect themselves. The prison officers are appointed for that purpose. They deserve our support, and they should not be undermined in this way by this sort of legislation.

Mr HASSELL: I need to set down very clearly that neither I nor the department has any intention of doing what the member for Fremantle suggests, which is, to use his words, to "get" prison officers. That is exactly what we do not want to do.

Mr Parker: You said you were frustrated by the existing provisions.

Mr HASSELL: I said that certain provisions of the prison disciplinary code provided technical stumbling blocks to the application of a proper system of discipline. It is passing strange that, only a few minutes ago in terms of the present debate, the member for Fremantle could have argued that one of the problems of the disciplinary system is that we are dealing with laymen who do not always know the legal niceties. In the next breath, he argued that these self-same laymen should be accepted as being able to make final decisions when they dismiss claims against prison officers without any appeal.

Mr Parker: Why has that been accepted for 75 years?

Mr HASSELL: I have no doubt the member for Fremantle would insist that when a charge on a disciplinary offence is proved, there be a right of appeal. I agree with him on that.

Mr Parker: Why has it not been changed for 75 years?

Mr HASSELL: It has not been thought necessary to do a lot of things. It has not been thought necessary to provide support services. Seventy-five years ago we had no psychologists, social workers, and support people.

Mr Parker: We are not talking about 75 years ago. We are talking about amendments that could have been made last year.

Mr HASSELL: We are talking about a prisons system in which there has been no major problem with discipline. I agree with the member for Fremantle on that. The department has had some difficulties and some differences—

Mr Parker: "Some differences" is an understatement.

Mr HASSELL: The union has made some quite unreasonable demands on management matters like rostering. The member for Fremantle knows as well as I do that for a long time the rostering was in the hands of a group of officers who used the roster for their personal advantage. The department has taken steps to prevent that, and properly so.

This provision provides simply that either side can appeal. It is not a remarkable provision. There is nothing unfair about it; there is nothing prejudicial about it. The disciplinary code as a whole, with the amendments we have made and those to be made, provides a system which is not unfair, prejudicial, or unreasonable.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 104: Determination of appeal by Director—

Mr HASSELL: In this clause, two subclauses refer to clause 106. The purpose was to allow the director, when reviewing an appeal, to increase the penalties above those which applied when the charge was laid—to upgrade the scale of penalties which could be applied to particular disciplinary offences. As a result of a submission from the union, that has been reconsidered.

It is deemed appropriate to move an amendment to limit the director's discretion to the

penalties which could have been applied by the superintendent on the original hearing of the charge. I move an amendment—

> Page 63, lines 28 and 32—Delete the figures "106" in both places where they occur, and substitute the figures "102".

Mr PARKER: The Opposition supports this amendment. Had this amendment not been moved, we would have had the extraordinary position that the reviewing officer who, in essence, is an appellate tribunal, would have had the right to impose penalties much greater than the penalties which could have been imposed by the initial tribunal. I am not an expert on these matters, but I am told by my legal colleagues that they know of no other jurisdiction in which that is the case. That would have been an extraordinary provision to introduce.

It would be akin to the situation in which somebody was tried and found guilty of an offence which carried a maximum penalty of five years, and the judge imposed a penalty of four years. On appeal against the conviction or against the severity of the sentence, the appellate tribunal could have increased the penalty to 20 years' imprisonment. That is the sort of thing proposed initially by the department and by the Minister.

That situation will be corrected by the amendment. It is absolutely extraordinary that the Government contemplated such a move, particularly when one considers that the Chief Secretary has a grounding in the law.

The amendment needs to be supported.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 105: Superintendent may refer charge to Director—

Mr HASSELL: The union took some objection to this clause. We have not been able to agree precisely on what it put forward, but it would be fair to provide a prison officer, who is suspended from duty on partial pay or without pay and other entitlements, with full pay and entitlements for the period of his suspension if the charge against him is dismissed. Accordingly, it is proposed to insert a new subclause to that effect.

I move an amendment—

> Page 64, line 22—Insert after subclause (2) the following new subclause to stand as subclause (3)—
>
> > (3) A prison officer who is suspended from duty under subsection (1) on partial pay or without pay and other entitlements shall be entitled to receive full pay and entitlements for the period of his suspension if, upon final determination, the charge against him is dismissed.

Mr PARKER: We have a number of issues to raise in relation to this clause. Subclause (1) requires that the superintendent shall suspend an officer. In the circumstances surrounding the clause, the superintendent is referring a charge to the director of the department. The superintendent is not given the discretion not to suspend an officer. There is a discretion whether he suspends the officer on full, partial, or no pay; but there is no discretion not to suspend.

The union is opposed to that. I can see no reason that the superintendent should decide it is more appropriate that the director should hear the appeal on the charge, and then decide simultaneously that the prison officer must be suspended, whether he wants to or not.

The second point is with respect to subclause (2), under which the director is required to confirm the suspension. Again, the director has no discretion unless special circumstances can be shown. The question arises as to what precisely are special circumstances. I do not know what would be required to prove special circumstances. The director will not be able to say that the superintendent made an error of judgment in suspending the prison officer, because the superintendent will not have had to exercise his judgment in relation to that. The superintendent will have exercised his powers without any discretion whatever.

What special circumstances could one expect the director to find in order to do anything but confirm the suspension? Members should recall that the director, in the same way as the courts, will have to have regard to natural justice for prisoners and prison officers in this regard.

It also can be expected that the courts may interfere with regard to the exercise of the director's powers. If, for example, the director decides not to confirm a suspension, but cannot show what is deemed to be special circumstances by a court, it may very well be a writ of *mandamus* would be taken out against the director.

It seems to me at the very least the director should have the discretion to decide whether or not a prison officer should be suspended in those circumstances. That seems to be one of the fundamental faults of subclauses (1) and (2). This is a diminution of standards which have applied to the working conditions of prison officers for many years. The current standard in regulation 36 is that if the prison officer is suspended while an

inquiry into disciplinary matters is being conducted and the end result of that inquiry is not that the prison officer is found guilty and dismissed, he receives all his back pay.

On some occasions the prison officer may be suspended on full pay, but if suspended on partial or full pay, if he is found not guilty, he is given back his money and that is the intent of the Minister's amendment. To that extent, it is an improvement. However, if the prison officer is found guilty, but not suspended, he ought to get his pay back as well. That is not what is proposed by the Minister's amendment which will have the effect, for example, that somebody could be suspended without pay for a considerable period of time while the charges were being dealt with. At the conclusion of that period, the director may determine he is guilty and fine him $50, $25, $10, or simply reprimand him. There is no provision for that officer to get back the pay he has lost.

On the contrary at the moment the provision is that, if that were to happen, the officer would pay his fine, but he would get his pay back for the period of his suspension. In determining how we shall apply a clause, we have to ask what is the purpose of the suspension. Surely it is not an additional mandatory penalty that shall be applied on the prison officer, but rather it is a way to remove the alleged offender from the system until such time as the seriousness of the offence, or in fact whether the alleged offence has been committed, is determined.

It seems to me if the nature of the offence in the ultimate is shown to be insufficient to warrant his dismissal from the job, it is also not sufficient to warrant his not being paid for the period of weeks for which he has been suspended, and he should get the money back. If the director decides a greater penalty should be imposed, under clause 106 he is entitled to impose a suspension for a period not exceeding 10 working days, which would be a form of punishment.

In the Bill forms of suspension are provided which are punishments of prison officers. These are found in clause 106. It seems to me that is the area where, if the director decides he wants to punish the prison officer by virtue of suspension, he has the opportunity to do so and the 10 working days is the limitation.

It is not appropriate that the director should additionally punish the prison officer by not paying him for the suspension up until the time of the determination of the charge. I do not believe the Minister has given the matter sufficient consideration. I do not think he has read clause 105 in conjunction with clause 106 which provides a suspension penalty.

Clause 105 is not intended to provide suspension as a penalty, but rather to remove the officer from the scene during the course of the conduct of the inquiry. If he is not dismissed from the force, he is entitled to get back his pay. If the director decides to suspend him from the force for the following 10 days, he would lose that money, and I do not quibble with that. That is provided for in clause 106 and it seems to me that is the appropriate place to deal with it, but the Minister is providing another situation in which the offending prison officer—it might be a very minor offence—might not get his money back even if he stays in the force.

Mr HASSELL: It seems important that this clause be understood properly and I do not think it is being interpreted correctly by the member for Fremantle.

In this clause we are dealing with the position where the superintendent has reached the conclusion that the charge of a disciplinary offence is so serious or important that it cannot be adequately dealt with by the superintendent under clause 102. So we start off on the basis that we are dealing with only the more serious disciplinary offences.

Mr Parker: Those which are considered by the superintendent to be more serious.

Mr HASSELL: We are dealing with those which are considered by the superintendent to be more serious, but he is required by law to have regard for the factors in the legislation and he must consider the particulars of the alleged offence, or if he has commenced his inquiry, he must consider all the evidence presented.

Mr Parker: It is contemplated quite clearly that the director might decide the offence is not so serious, and yet he is entitled to impose a penalty.

Mr HASSELL: In determining that the charge is serious, the superintendent is not determining the charge; he is simply determining it must be dealt with by the higher authority which has the power to determine the penalty.

I have no doubt it would be understood by the member for Fremantle that, where there are against prison officers serious charges of a nature which involve prisoners, in particular, we have to be able to get the officer out of the working environment, or he may exacerbate the problem. Therefore, we have to be able to suspend the prison officer and that is the reason suspension is provided here and, in the case of an appeal, so that a suspension can continue until the matter is resolved finally.

In addition, under subclause (2), the director has the power to lift the suspension if there are special circumstances which in his opinion justify it. We cannot define the circumstances nor can we use words which are more precise. I am not suggesting the drafting is the be-all and the end-all of the words that could be used; but whatever words are used, one has to allow a judgment to some extent.

Mr Parker: The ability to make a judgment is not available.

Mr HASSELL: Under subclause (2) the director is able to make a judgment.

Mr Parker: He is very limited in the way he can exercise that power.

Mr HASSELL: It is limited for good reason which I have explained already. We are dealing with serious cases and we must have suspension; nevertheless, we have the position that we propose to write in that, if the officer is suspended and then he is ultimately found not to be at fault, he gets back his entitlement. I do not see any cause for alarm about it. I do not see it as being unfair. Indeed, it is meticulously fair to the officer. We must have the provision which allows an officer who is charged with certain types of offences to be taken out of the system so that he is away from the source of trouble which could have a bearing on the whole security and good order of the system.

Mr Parker: I am not arguing about that.

Mr HASSELL: That is central to the clause. I am not saying the member is arguing about it, but that is why the clause is drafted in that way. When it is put in the context of clause 102 and the discretion allowed to the director under subclause (2) of this clause and the new subclause which guarantees a return of salary, there is no disadvantage.

Mr Parker: The return of salary is only if he is found to be not completely guilty. What happens if the director decides that it is, in fact, so trivial he only wants to impose a caution? The person has suffered a penalty which could be in the order of hundreds or thousands of dollars while waiting for the charge to be determined.

Mr HASSELL: He is not likely to suffer that kind of penalty, because the charge will be determined expeditiously. Except in the most extreme case of a genuinely trivial nature, the suspension can be taken into account in determining the penalty. We have discussed this already on other issues and it is not realistic to contemplate these circumstances would arise over what is genuinely trivial.

Mr Parker: The director should have some discretion, if a person is found guilty and the penalty is imposed, to determine, as part of that penalty, whether the person will get his money back. At least that discretion should be provided. At the moment the director does not even have the discretion, let alone the mandatory responsibility. A director may simply want to impose a caution and allow the person to get back his money.

Mr HASSELL: In clause 106 the director has the necessary discretion when dealing with the penalty.

Mr Parker: No, he does not, because if he decides the only penalty that should be imposed is a caution, he does not have the discretion to decide the man will get back his money. He can only decide the person is not guilty or penalise him in that way.

Mr HASSELL: The member for Fremantle is putting forward an extraordinary and technical proposition.

Mr Parker: It can happen.

Mr HASSELL: If it has that effect, perhaps we will look at that particular point before the matter is passed through the other place. As I have said before, although the member tries to say otherwise, we have no intention to be unfair to an officer.

Mr PARKER: Let me thank the Minister for his undertaking to review this matter before it proceeds through the upper House. I would just like to make a brief point; that is, if this legislation were not proceeding as quickly as it is, it would not be necessary to deal with this point in the upper House. We would have the time to deal with it here, as occurred in relation to the Workers' Compensation Bill when the Deputy Premier allowed amendments to be dealt with in this Chamber which is, after all, the most important House of the Parliament.

Amendment put and passed.

Clause, as amended, put and passed.

Clause 106: Determination of charge by Director—

Mr PARKER: There are two other matters which the Prison Officers' Union has raised with respect to this clause. Under this provision, the superintendent refers a disciplinary charge he considers to be serious to the director who either holds the inquiry or appoints someone else to do so and delegates his powers to that person. It has been suggested by the union that, if the superintendent has determined that a matter is so important it should go to a director, the director's

delegation should not go back to the superintendent.

The union is concerned that this clause could operate in such a way that, if the superintendent only is trying to get additional powers unto himself, instead of dealing with offences *ab initio*, he will refer them to the director and the director, in turn, can refer them back to the superintendent and he will deal with them with vastly increased powers.

That is something which is of great concern to the union and which has been put forward by it. One of the things it is worried about is that the superintendent of a prison who may be able to deal with minor disciplinary matters within his prison may well not be the person who is able to determine the much greater list of charges which can be levelled against a prison officer such as those provided in subclause (2) of clause 106. The strong view of the Prison Officers' Union is that any powers to hear an inquiry ought to be delegated by the director not to a superintendent, and particularly not to the superintendent who initially preferred the charges to the director, which could happen in the way this legislation is designed. The union believes that delegation should go to another senior officer of the department—the deputy director or one of the assistant directors. This view of the Prison Officers' Union has not been accommodated by the Government. Again I must say that we understand its view. In many cases antagonism develops within the department. Even the Minister referred to that yesterday.

Mr Hassell: That was when you were representing one of them.

Mr PARKER: That is the point; I was not. I kept trying to say that to the Minister, but he has not taken the point. He would be astonished if he knew who gave me the information and who confirmed certain aspects.

Mr Hassell: You alleged it was not the third or fourth level and you agreed it was not the director or his deputy, so the next step down is the third level.

Mr PARKER: I do not precisely know what the levels are, but I agree with the Minister, and I continue to agree, that neither the director nor the deputy director gave me the information, nor was it either of them who confirmed it with me, but it was very senior officers of the department.

Mr Hassell: That is the third or fourth level. That is exactly what I said.

Mr PARKER: The Minister cannot then say the third and fourth levels are low levels of the department, because I can assure him that some of the persons to whom I spoke were at very senior levels of the department. I do not know whether they are in the third, fourth, or 100th level, but it was a very senior level. I do not know how they would be described in the Minister's jargon.

The point I am making is that animosities do occur. It is important to be able to say that serious charges such as those contemplated in clauses 105 and 106 ought to be dealt with by the director or by another very senior officer. Apparently some of them are only level three officers such as assistant directors. I am surprised to learn that assistant directors are only level three officers. That is the level at which those charges ought to be dealt with and the director should not have the authority to refer them back down to the superintendent; particularly, it should not be possible for them to be referred to the superintendent. They should be referred in the first instance to the director or the superintendent in the prison concerned. That is the first point.

The second point that the Prison Officers' Union is concerned with is the question of whether or not the director under clause 106 (4), having delegated responsibility to someone and the delegate then hears the charge and makes a determination the director, without hearing any of the material which the delegate has heard, is simply able to vary both the penalty and the result of that charge. To take one possibility, the director, theoretically, could send someone off as his delegate to hear a charge and the delegate could find the person guilty and due for suspension of pay for 10 days, and the director could say, "That is very nice. Thank you very much, but I have decided he is not guilty and he is not going to get any charge", and the converse does not apply.

Mr Hassell: He cannot increase it without another hearing.

Mr PARKER: That is right.

Mr Hassell: Do you object to his being able to lower it?

Mr PARKER: He can not only lower it, but also vary the determination. I would not mind so much if the power of the director was confined to varying the penalty imposed.

Mr Hassell: Where can he change the determination? The subclause here only refers to the—

Mr PARKER: The Minister is correct. I am sorry about that. That was obviously a point which the Prison Officers' Union raised which is not in fact contained in subclause (4) and is not valid. I accept that.

There is some concern with regard to subclause (4) and perhaps it has been largely answered by the Minister's comments just then. The first point I raised about who should be delegated by the director in these serious matters is a valid one and ought to have been given more serious consideration by the Minister and the department.

Mr HASSELL: With all due respect to the member for Fremantle, I will reply briefly. He is, of course, raising all the points that the Prison Officers' Union raised. Notwithstanding all the points that were conceded, he still persisted in raising them.

Mr Parker: Is there anything wrong with that?

Mr HASSELL: In other words, there never was any possibility of accommodating the union and saying, "Here is the bit you can have and here is what you cannot have. It's a fair deal".

Mr Parker: You reached an accommodation in terms of their not taking industrial action over the Bill. Surely you are not going to deny them the right to have these matters answered in the Chamber. What are you complaining about?

Mr HASSELL: I am not complaining, but was just making the point.

Mr Parker: What point are you making?

Mr HASSELL: The point in relation to clause 106(1)(b) was not accepted because the matter of who deals with a charge depends on a lot of circumstances and, properly, on the judgment of the director who should not be put in a position where his assistant directors, who are the people referred to as those who should be dealing with the charges, must get tied up with dealing with disciplinary charges. Some superintendents in the department have a great capacity to deal with quite complex charges; others do not have that capacity, but this is a matter of administration which requires a judgment by the director and depends on the circumstances. Those issues should and would be considered by the director.

Mr Parker: What about the question I raised of appointing someone who is outside the department to hear the charge under 106(1)?

Mr HASSELL: That is possible within the clause, but it would be seldom contemplated. There are actually circumstances where an officer would be very happy if that occurred because of the sorts of issues the member for Fremantle has raised concerning conduct and prejudice, but I do not think that would ever happen in the normal course.

As to subclause (4), there is not an issue there because we have quite deliberately written in that the director has an overview of penalties, and we have made it clear that he should have that so he can ensure there is some uniformity of penalties, but at the same time he cannot prejudice a man or increase a penalty without having a further hearing.

Clause put and passed.

Clause 107: Constitution of Appeal Tribunal—

Mr HASSELL: For no other reason than to record it, I wish to make the point that the original proposal was that there simply be an appeal tribunal comprising a magistrate. The union made very strong representations that we should continue with the present structure of having a union representative and a departmental representative. That was conceded. I do not think that it really improves the tribunal, although arguments were put that suggested it was because of the inherent knowledge that people from the department and the union would have. Another alternative might have been that the union representative might not be so much a union representative as an officers' representative elected by all the officers. However, again the concession was made to the union and it had it as it wanted it. I just record that information because it did occur.

Clause put and passed.

Clause 108: Appeals to Appeal Tribunal—

Mr HASSELL: There is in my name on the notice paper an amendment in relation to clause 108 and the member for Fremantle has drawn to my attention a deficiency in the drafting of that amendment; and I thank him for that. It was referred back to Parliamentary Counsel and I must vary the amendment. The amendment is as it appears on the notice paper with the exception that the subclause designation "(4)" must be deleted so that it is clear that a prison officer can appeal, not only from a determination of guilt, but also against a penalty imposed. I move an amendment—

> Page 66—Delete paragraphs (d) and (e) and substitute the following paragraph—
>
> (d) a penalty imposed by the Director under section 106, .

Amendment put and passed.

Clause, as amended, put and passed.

Clause 109: Fines may be deducted from pay etc.—

Mr HASSELL: I move an amendment—

> Page 67, line 25—Insert after the clause designation "109." the subclause designation "(1)".

Amendment put and passed.

Mr HASSELL: I move an amendment—

Page 67—After line 29 insert the following new subclause to stand as subclause (2)—

(2) A penalty lawfully imposed under this Part on a prison officer shall continue to have effect and be given effect to notwithstanding the institution of an appeal under section 108, but the Director shall ensure that any necessary financial adjustments or other appropriate action are made or taken upon the determination of the appeal.

Certain issues have been raised by the union in relation to this clause. It said, "What happens where you have a fine imposed and the present practice is to allow the officer to pay the fine off over a number of pay periods?" I give a clear assurance that the present practice will continue and that all cases of difficulty will be dealt with sympathetically except where there is an officer who is in such serious circumstances that he would not be able to follow the usual practice. There is no question of our writing out the power to allow payments over a period and that has not, and will not, be done in practice.

Mr PARKER: As the Minister said, the union has raised concern with regard to clause 109. It is still concerned with the proposed amendment the Minister has put forward because it still implies that the reverse of the normal system which applies with regard to criminal justice should apply to this, what might be loosely termed, disciplinary justice, within the prison system. If one were found guilty of some offence under the Justices Act, the Police Act, or the Criminal Code, one would appeal against the offence and the penalty would not be imposed upon him during the time the appeal was being determined.

Mr Hassell: That may be true in part, but if someone is convicted of rape or murder, he will not be let out of goal. That is my point.

Mr PARKER: Is the Minister equating the disciplinary provision—

Mr Hassell: No, I am not. You were using the analogy of criminal law. I am using the same analogy.

Mr PARKER: Yes, but the point I am making is that the Minister is saying that he has equated the way in which people who have committed serious offences under criminal law are treated pending their appeal with the way in which prison officers are treated.

Mr Hassell: Let me explain that I am using the same analogy to illustrate my point. The purpose of the amendment is to accept an officer who has been suspended, but remains suspended for the very reasons which the member has agreed were necessary in some cases.

Mr PARKER: I do not object to suspension in those cases. The point that concerns me is that two other possibilities may occur. The first is the possibility of a fine which, under this clause, may be taken out of the officer's pay pending an appeal. The second possibility is that of dismissal, which, under this clause, will take effect pending the appeal. If the clause were worded in such a way that the person who had been determined to be dismissed by the director then applied to the appeal tribunal and for the period of his appeal he was deemed to be suspended, I would agree with the Minister completely. But the Minister is not saying that, and the Government's amendments do not say that. The Government's amendments say that if, for example, a person is dismissed by the director and then appeals, that dismissal shall have effect, and all necessary things shall be done to give effect to that dismissal, and this would include the payment of termination pay and superannuation benefits, etc., and then any necessary adjustments would be made later.

I am suggesting to the Minister that, if it is determined that a person be dismissed and that is being appealed against, until the appeal is heard the person should be regarded as continuing to be suspended. I do not have the necessary words to cover such a situation, but it is not an unusual state of affairs in similar circumstances. I understand that is the way the Public Service Act operates, and certainly it is the way particular disciplinary conditions operate in private industry.

The Minister is saying that if a person demands to be dismissed and he is dismissed, he is guilty until proven innocent. This is the reverse of the situation in criminal law. The Minister is drawing an analogy between the most serious offences under criminal law and offences against discipline by prison officers.

Let us draw an analogy with the situation of a person who is fined and who appeals against that fine. That is a much better analogy than the one the Minister seeks to draw. When referring to disciplinary offences we are not talking of crimes as severe as those of murder or rape. In the case of a person who has been fined, he does not pay the fine or the costs involved until the appeal is heard.

Mr Hassell: If you sit down I will tell you something.

Mr PARKER: I am saying that a dismissal should be regarded as a suspension until such

time as a final determination on the issue has been heard.

Mr HASSELL: The purpose of the amendment is basically to ensure that the person who has been suspended to remove him from the system, remains suspended. There may be some substance to the remarks of the member for Fremantle, and I will add this point to the other matter to be reviewed.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 110 to 112 put and passed.

Clause 113: Construction of s.5 Truck Act—

Mr PARKER: This is the clause which will over-ride the Truck Act. The provisions of the Truck Act were fought for very strenuously by workers in this State—although, perhaps less strenuously than in Great Britain and other parts of Australia—and by the trade union movement over a long period of time. The purpose of the Truck Act is precisely to provide that, without the employee's consent, an employer could not use his privileged position—that of being a trustee of the worker's money for a period of time—to remove from money so held, essentially in trust, a sum of money which the employer deemed to be owed to him. That is the essence of the Truck Act, although it does cover other things such as bartering; a worker may not be paid in chickens for his labour.

Mr Hassell: What about apples and oranges?

Mr PARKER: That is right. It seems to me that the proposed prisons department should not be in any position different from that of any other employer, *vis-à-vis* its employees. We have already passed a clause to allow the department to deduct fines from its employees' pay. It is perfectly legitimate for the department to sue an employee in a court of law for the recovery of a debt. The department would still be able to do this, even if we do not pass the clause. I can see no purpose for it at all. The Minister has already inserted a provision to allow the department to deduct fines.

Mr Hassell: It is a long-standing practice to deduct fines, isn't it?

Mr PARKER: Yes, I know, but the Minister is now seeking to add an additional practice; that is, that an alleged debt may be deducted by the department. Let us take, for example, a prison officer who is renting a house from the department. Without reference to a court, the department could determine that a bond was owing, and the bond could be deducted from the employee's termination pay. That would put the department in a situation different from that of any other landlord.

Let us take as an example the iron ore industry where many companies are also landlords. If an attempt were made to implement such a provision in that industry, there would be a riot in the Pilbara. The department may make such a deduction now with the employee's authority, but it should not be able to do so without that authority. This is a classic example of overkill, and we should vote against the clause.

Clause put and a division taken with the following result—

	Ayes 25	
Mr Clarko	Mr Old	
Mr Cowan	Mr Rushton	
Mr Coyne	Mr Sibson	
Mrs Craig	Mr Sodeman	
Mr Grayden	Mr Spriggs	
Mr Grewar	Mr Stephens	
Mr Hassell	Mr Trethowan	
Mr Herzfeld	Mr Tubby	
Mr P. V. Jones	Mr Watt	
Mr MacKinnon	Mr Williams	
Mr McPharlin	Mr Young	
Mr Mensaros	Mr Blaikie	
Mr O'Connor		*(Teller)*
	Noes 14	
Mr Barnett	Mr Hodge	
Mr Bertram	Mr Jamieson	
Mr Bryce	Mr McIver	
Mr Brian Burke	Mr Parker	
Mr Carr	Mr I. F. Taylor	
Mr Davies	Mr Wilson	
Mr Evans	Mr Bateman	
		(Teller)

Pairs	
Ayes	Noes
Sir Charles Court	Mr A. D. Taylor
Mr Laurance	Mr T. H. Jones
Dr Dadour	Mr Grill
Mr Shalders	Mr Tonkin
Mr Crane	Mr Bridge

Clause thus passed.

Clause 114: Failure to perform duties—

Mr PARKER: Members will be pleased to hear that this is the last clause to which I wish to speak. This clause is another one of the Minister's ideological planks in the eye which he insists on inserting into all legislation dealing with departments. He has a blind spot in regard to industrial questions, but I have spoken quite sufficiently about the Minister's problems in dealing with such matters, and I do not wish to go over those points again.

I would like to make the point very briefly that the provisions contained in this clause would be available for the department to use just as easily if, in circumstances where it was felt necessary, the department were to go before the Industrial Commission and ask it to exercise its jurisdiction

to make such an order. However, there are two problems with such a course.

Firstly, there is the problem that the Minister is not convinced he is likely to win a case in the Industrial Commission. That is hardly surprising because the Minister does not have a very good track record in that institution, even though the Government has appointed one of his former legal partners as a commissioner, and, as I understand it, a commissioner presiding over this area of industry.

The Minister has a known antagonism towards that body, so it is not really surprising that he should not want to try to put a case before it and have the case determined on merit. However, everyone else must do that—not only the unions, but also private employers. The Minister wishes to avoid being placed in the embarrassing position of having his cases tried on merit. He is concerned that his cases may be found not to have any merit. So he introduces legislation such as the Bill before us now and then the Industrial Commission does not have to consider whether the Minister's cases have any merit.

The Minister wishes to ensure that the Industrial Commission cannot deal with industrial disputes affecting the discipline of employees of Government departments. In my view that is a tragedy because the Industrial Commission has a very good record in resolving industrial disputes. It has ensured that the minimum of disruption takes place while it is sorting out disputes and it is a tragedy that it has one hand tied behind its back when it is dealing with these matters.

Those amendments were made precisely because the Minister lost the case before the Industrial Commission concerning the discipline of an officer in another department, where, when the case was judged on its merits, it was found that the Government's case did not have any merits. That is the reason for clause 114.

I strongly oppose the clause. It flies in the face of everything good and encouraging in industrial relations, as so much of this Government's attitude does and as so much of this Minister's attitude does, especially concerning his own employees.

Mr HASSELL: I do not propose to be drawn into responding in detail to the quite extreme and inaccurate statements made by the member for Fremantle about my attitude to industrial relations. I refute what he said. Not for a minute do I accept that he was accurate or right in any way.

Clause 114 is founded on a very proper principle; that is, if an employee is not prepared to do the duties he is obliged to do under his award or his contract of employment he should be liable to a clause such as this.

Mr Parker: There is adequate machinery available. You can go to the Industrial Commission to get an order to that effect if the case is good enough.

Mr HASSELL: The second point is that in drafting this clause we were very careful to work in a proper industrial way. In the Commonwealth legislation which relates to the same thing, these matters are determined by administrative action. I deliberately provided in the drafting of this clause that the issue be taken to the commission—an independent body—to determine the facts, so there is no arbitrary decision-making on an industrial dispute, strike, or action.

Further, it is in pursuance of the policy of the Industrial Commission itself—which the member for Fremantle lauded a few moments ago—that industrial action should be separated so far as is possible from discipline. I do not entirely accept that view, but there is some substance when the Industrial Commission says that we should not try to deal with an industrial dispute by using the disciplinary proceedings. When an officer refuses to do part of his duties it is possible to lay disciplinary charges. If hundreds of officers are involved, hundreds of charges can be laid. I accept that to do so puts the disciplinary system under a strain, and we do not want that. Therefore it is appropriate with this kind of industrial issue that it be separated from discipline. That is why the clause is worded as it is.

Finally, notwithstanding the terms of the clause, there are options and discretions still available which are necessary in the handling of industrial conflicts. The Minister has an option to decide whether he should apply to the commission for a declaration. Even when he has succeeded in obtaining such a declaration he still has an option whether to apply it.

Where there was a genuine issue which was not deliberately industrial, where officers on some basis of genuine concern—perhaps on a safety matter—were taking industrial action of a partial strike nature, it would be a very unwise Minister who rushed in to apply this provision.

Mr Parker: That sounds like a description of the current Minister.

Mr HASSELL: I do not mind if the member makes that sort of cheap, immature statement.

The clause is very balanced. It was carefully drafted. It allows the Industrial Commission a proper role in determining the facts as an

independent determiner of facts. It leaves options for good industrial relations.

Clause put and passed.

Clauses 115 to 117 put and passed.

Schedule 1—

Mr HASSELL: I move an amendment—

Page 74, line 11—Delete the words "Broome Gaol" and substitute the words "Broome Regional Prison".

The fact is the gaol is already proclaimed as the Broome Regional Prison.

Amendment put and passed.

Schedule, as amended, put and passed.

Schedule 2 put and passed.

Title put and passed.

Bill reported with amendments.

Recommittal

Bill recommitted, on motion by Mr Hassell (Chief Secretary), for the further consideration of clause 10.

In Committee

The Deputy Chairman of Committees (Mr Nanovich) in the Chair; Mr Hassell (Chief Secretary) in charge of the Bill.

Clause 10: Failure to supply information to inquiry—

Mr HASSELL: The issue was raised by the member for Fremantle that the penalty provided in this clause is greater than that which applies to a prisoner under subclause (2). That is not altogether accurate in that the prisoner's penalty can be $300 or imprisonment, whereas there is no provision for imprisonment in subclause (1) for prison officers.

I indicated I would give this matter further consideration. I have done this and I now move an amendment—

Page 8, line 28—Delete the passage "$500" and substitute the passage "$300"

Amendment put and passed.

Clause, as further amended, put and passed.

Further Report

Bill again reported, with a further amendment, and the report adopted.

Third Reading

MR HASSELL (Cottesloe—Chief Secretary) [8.57 p.m.]: I move—

That the Bill be now read a third time.

Point of Order

Mr PARKER: I am aware that Standing Orders have been suspended, but when a Bill has been amended in Committee I understand that before the third reading can take place it must be reprinted. That has not happened.

The DEPUTY SPEAKER (Mr Crane): The amendments have been initialled as is required by our Standing Orders, and the Chairman has signed the Bill accordingly.

Debate Resumed

Mr HASSELL: I simply want to record three points. During discussion on clause 19 the member for Fremantle raised the issue of whether the drafting of the clause precluded a court from ordering that a penalty which is sometimes used in the courts—that the prisoner remain in the precinct of the court for the balance of the sitting—could be made. The point he raised was whether the clause would preclude this course. I have sought advice on the matter, and that advice is to the effect that the accused is not committed to prison, which would be outside the scope of the provision, and that the ability of the magistrate to detain a person does not cut across his powers of sentencing.

Mr Parker: What sort of sentence does the person have when he is not at liberty and is not in prison?

Mr HASSELL: He is in the custody of the court.

Mr Parker: How is that contained in the ability of the magistrate to impose a sentence?

Mr HASSELL: It is part of the inherent right of the court.

Mr Parker: I hope you are right.

Mr HASSELL: It is the same authority under which a court retains a witness.

Mr Parker: I appreciate the court would require a person to stay, but the court is actually sentencing someone, and he may stay there until the end of the day. The sentence is usually in the magistrate's discretion as to whether he imposes a fine or imprisonment, but how does he detain the accused?

Mr HASSELL: The member would receive tremendous argument in the High Court if he raised there the interpretation of a sentence as such. The advice is that the practice can still be adopted; in a practical way it solves many problems.

To round off the matter, I repeat that we will consider two points raised in the debate and

whether amendments will be appropriate in another place. The member for Fremantle referred to clause 105 and suggested that if a prison officer were found to have committed a disciplinary offence and only a minor penalty was imposed, no discretion exists to adjust his salary; if he were not convicted the amendment we have made would require that he be paid back salary for the period of suspension.

In relation to clause 109 (2) as inserted, the member for Fremantle raised a point in relation to continuing with the dismissal or fine when an appeal has been instituted. That matter will be considered because I concede there may be some practical problems with that procedure. The objective of the clause is to continue the allowance for a suspension.

I conclude by thanking members for their broad support of the Bill. I hate to think how long we would have taken if they had opposed it.

Question put and passed.

Bill read a third time and transmitted to the Council.

ACTS AMENDMENT (PRISONS) BILL

Second Reading

Debate resumed from 28 October.

MR PARKER (Fremantle) [9.04 p.m.]: Matters relating to prisons have detained the House for a considerable period, and I do not intend to detain it for much longer in respect of the provisions contained in this legislation because they are required only as a consequence of the Prisons Bill. For that reason we support this Bill.

One aspect of it does give me some concern, and that is its reference to reformatory prisons. The Minister would be aware that I have received representations from prisoners, and those representations have concerned prisoners who have been sentenced to what they term as "the key", which is an indeterminate sentence.

Many of these prisoners have been sentenced to be detained in a reformatory prison, but that sort of establishment has not existed for a long time. One prison was gazetted as a reformatory prison, although not one is gazetted at the moment. Bartons Mill Prison was gazetted as a reformatory prison, but it was not used as such because one of the provisions of the legislation covering such prisons did not allow Bartons Mill Prison to be operated as such.

I do not disagree with the idea that provisions relating to reformatory prisons should be abolished, but it seems strange that the provision has come before this House shortly after a Supreme Court action was initiated against the Government accusing it of wrongfully holding certain people in prisons which are not reformatory prisons; and not abiding by decisions of the judiciary of this State. This issue is another example of the Government's not caring—although, I do not say this was done maliciously—about whether it obeys its own laws. It has been expedient to place prisoners in prisons which are not reformatory prisons, although those prisoners have been sentenced to reformatory prisons. The Government has not had regard to whether its actions have been legal, and has come before this House now to make those actions legal.

As a result of the abolition of the Indeterminate Sentences Board there appears to be no provision for the review of indeterminate sentences. The board was abolished by the Offenders Probation and Parole Act, and it appears that the intention was that the Parole Board would take over the functions of the old Indeterminate Sentences Board and review indeterminate sentences—people sentenced at the Governor's pleasure. I suppose if someone were sentenced at the Governor's pleasure the only person to determine whether the prisoner should be released would be the Governor, but realistically he would take the advice of his Cabinet and the Minister, and the Minister would take advice from some other authority. It seems to me that the Parole Board is the proper body to determine the sentences of people serving indeterminate sentences, but I understand that no way presently exists for the cases of such people to come up for review. I regard that situation as wrong. The situation could well result in a person staying in prison for a considerable time. It does seem as though there should be some review. Whether the Parole Board does not review these cases because it does not have the power to do so, I do not know, but it is obvious it is not reviewing them.

It is of concern to me that some people who ought not to be in prison at all, in fact are detained without a review. I accept that they should be detained in some way from the community, if that is necessary, and that the detention should occur in some penal institution.

I am sure the Minister is aware of a recent incident. My correspondence in relation to the matter took three weeks to get to me, so I am sure the Minister is well aware of it by now. A representation was made to me about a man named Ivan Dumas. I understand he committed an assault which may have had some sexual overtones. He was committed to the Graylands

Hospital, and after some 15 years at that institution the hospital authorities said they could do nothing more for him. As a result of his indeterminate sentence he could not be let go, and was discharged from the hospital to Fremantle Prison where I understand he now languishes.

No point whatsoever appears to exist in that person being in Fremantle Prison. Probably he is not a person who should be allowed to go back into the community. Probably he suffers some disabilities which preclude him from being a member of the community at large. I am not aware of all the circumstances, and concede that he is a person who should be detained, but it is patently obvious that his detention at Fremantle Prison is not doing anybody any good. He should not be incarcerated continually at that prison. I understand he takes drugs prescribed to him, and when he does he is harmless to anybody else, although if he does not he makes irrational decisions and because of those decisions may harm others. I accept he should be kept away from the general community, but he should be detained at an institution such as Karnet, Wooroloo, or Bartons Mill.

I know this matter is not just within the province of the Chief Secretary; it is also within the province of the Attorney General and, possibly, the Minister for Health. It seems this whole question is one to which the Government has not given sufficient attention.

In relation to a matter the province of the Chief Secretary, I wonder what we should do with people the subject of indeterminate sentences. In regard to someone else's province, I wonder what we should do with people detained by way of an indeterminate sentence being imposed because of a mental condition. Now is very much the time for this Minister to give consideration to what happens to prisoners to whom I have referred, whether they are detained in mental institutions or others, and the procedures for reviewing their cases.

It was not until Mr Dumas' case came to light that the review of these cases was shown to be necessary. A voluntary organisation had contact with Mr Dumas, and I believe it presently carries out training work for him. It does not seem entirely proper that he should remain in Fremantle Prison.

I accept that the concept of reformatory prisons has gone out the window, and has been out that window for many years, but it seems that the Government is holding people such as Mr Dumas illegally in Fremantle Prison and will continue to do so. The Government needs to give this matter serious attention.

As I said, other provisions of the Bill largely are of a consequential nature, and I do not object to them; I understand the need for them. The Opposition supports the motion for the second reading of this Bill.

MR HASSELL (Cottesloe—Chief Secretary) [9.12 p.m.]: My response will be brief. So far as indeterminate sentences and such prisoners are concerned, the matter essentially is within the basic purview and province of the Attorney General so far as the laws are concerned. I do not think I should enter the debate on the matter except to indicate that it is not accurate to say no machinery exists for review of cases. Both in this area and in the area of community welfare the same situation applies; it is always within my competence to initiate a review through the Government system, and that is done quite frequently. It may be that formal machinery is needed. I understand the Parole Board has declined to deal with these cases because it does not have the power to do so, but I cannot comment further because this matter is not within my ministerial responsibility.

Reformatory prisons became desuetude some years ago; in fact, it is so long in the past that I do not think anyone can remember the time when they existed. We have not sought to pre-empt any legal proceedings instituted, and the provision in the Bill will operate only forwards, not backwards; the provisions are not acually retrospective. We do not consider a need exists for retrospectivity, although it is conceded that a need could arise. I repeat the assertion that nobody has been held illegally.

Question put and passed.

Bill read a second time.

In Committee

The Deputy Chairman of Committees (Mr Blaikie) in the Chair; Mr Hassell (Chief Secretary) in charge of the Bill.

Clause 1: Short title—

Mr PARKER: I asked the Minister a question about Dumas, but he did not respond to me. He has the ability to review the case—

Mr Hassell: I do not; I institute a review through the system.

Mr PARKER: Will he institute a review through the system on the Dumas case?

Mr Hassell: I thought the member for Fremantle had acknowledged that the matter was in hand.

Clause put and passed.

Clauses 2 to 20 put and passed.

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

Third Reading

Bill read a third time, on motion by Mr Hassell (Chief Secretary), and transmitted to the Council.

JUSTICES AMENDMENT BILL

Receipt and First Reading

Bill received from the Council; and, on motion by Mr O'Connor (Deputy Premier), read a first time.

Second Reading

MR O'CONNOR (Mt. Lawley—Deputy Premier) [9.19 p.m.]: I move—

That the Bill be now read a second time.

Section 135 of the Justices Act makes provision for persons to enter a written plea of guilty to a summons charge if they wish to do so. About 80 per cent of summons cases for traffic offences, for example, result in written pleas of guilty being entered and effectively means that persons do not have to attend court.

Some difficulty is experienced by the courts in scheduling the remaining summons cases because under the present practice there is no way of knowing in advance whether an accused person intends to plead not guilty or has just simply ignored the summons.

Over the last few years a practice has developed whereby police prosecutors do not summon their witnesses until a plea is known.

If, on the day of hearing, a plea of not guilty is entered, police generally request an adjournment so that the prosecution witnesses may be summoned for a later date when evidence can be given.

This arrangement is not governed by legislation and some charges have been dismissed when the police have not been ready to proceed if a plea of not guilty is entered.

In 1977, on appeal to the Supreme Court following the dismissal of a case in such circumstances, the present Chief Justice—then Burt, J.—made the following comments—

> Commonsense has to be exercised in these things. The prosecutor should, I think, know whether he has a fight on his hands or not. It is not reasonable, I think, to expect in courts of petty sessions, for police on every complaint to have all their witnesses marshalled in court before a plea is known.
>
> It would be very wasteful of manpower and very expensive and it is simply not, as it seems to me, a reasonable way of proceeding.

Although it is now the practice in some courts to adjourn contested matters to another date, this is not accepted universally and some cases continue to be dismissed when the prosecution is not in a position to proceed.

Furthermore, one must also have concern for the defendant who may attend the court in the bona fide belief that the case will proceed on a particular day, only to be informed that as it is being defended, the case will be tried on another day.

As a result, the Government believes it is necessary for the practice to be formalised for the convenience of all parties.

The Bill which is now before the House provides for an amendment to the Justices Act permitting or requesting persons summoned for an offence who wish to defend the matter to enter a written plea of not guilty.

On the first occasion the matter comes before the court, a hearing date will be set and any witnesses can be summoned for that date. There will be no requirement for the defendant or his solicitor to attend on the first occasion the matter comes before the court, as written notice of the subsequent hearing date will be given.

There are several advantages which will flow from the proposed changes, including the more effective listing of cases in the courts.

Considerable cost savings will follow for the defendant because he and his counsel will only appear on the day when a hearing is virtually guaranteed. In addition, witnesses for both the prosecution and the defence can be arranged with more certainty. A procedure similar to that proposed already operates successfully in Queensland and Tasmania.

It has not been possible to extend these provisions to indictable offences triable summarily for which summons proceedings are taken because of the need for certain schedules to be read to the defendant by the court before he elects whether to be dealt with summarily and before he can enter a plea to the charge.

It is, however, provided that in the case of indictable offences triable summarily where a plea of not guilty is entered, the trial will not proceed on the first hearing date. This will assist

both parties and the court to know where they stand and avoid further expense.

It is confidently anticipated that the proposed amendments will reduce inconvenience to all parties, reduce costs, and save the courts' time.

Courts will be able to programme listings more effectively. There will be considerable costs savings for defendants because defendants and counsel will need to appear only on the actual day of hearing.

Also witnesses for both prosecution and defence will be arranged with more certainty and considerably less public inconvenience.

I commend the Bill to the House.

Debate adjourned, on motion by Mr Bertram.

MEMBERS OF PARLIAMENT: FINANCIAL INTERESTS

Disclosure: Motion

MR BRIAN BURKE (Balcatta—Leader of the Opposition) [9.24 p.m.]: I move—

> That this House supports the principle of public disclosure by Members of Parliament of their financial interests.

I know you, Mr Acting Speaker (Mr Crane), are one of those who will not object to public disclosure of financial interests of members of Parliament, but I wonder why it is in this Chamber that the Australian Labor Party, the Opposition in this place, continually has to set the lead.

Time and time again we have gone on record in this place, and in other public places, setting out our attitude that members of Parliament should not be afraid to disclose their financial interests. Time and time again we have been confronted by the contrary proposition, usually put by the Premier, who says that it is not necessary, or if it is necessary, it should be private, not public disclosure. He has said that he believes we would be turning away from Parliament men who are successful because they will not want to disclose their financial interests.

The Opposition takes issue with that sort of attitude and believes that in any case the public disclosure of financial interests of members of Parliament is certain to come; it is as inevitable as it is that night follows day. While it is probably true we will not have any worth-while disclosure legislation brought to this House while the Premier remains a member of this Chamber, I can guarantee members that it is absolutely inevitable that public disclosure of financial interests of members will come about in due course.

If people in this place and outside are wondering about the depth of public feeling towards this sort of proposition, they should turn their attention to the result of the New South Wales referendum on this very matter. At that referendum, a majority of six to one electors in New South Wales supported the proposition that there should be disclosure of financial interests of members of Parliament.

Is it the Government's contention that Western Australians are so different from those people who live in New South Wales that the results of the polling of opinion in this State will vary from that which was expressed in New South Wales? Of course that is not true and there is a growing awareness amongst members of Parliament that disclosure is desirable.

I do not believe that any member in this Chamber has anything to hide, but if that is the case and there is nothing to hide, then why the objection on the part of members to disclose their interests?

Some weeks ago I wrote to all members of the Parliament and put to them the proposition that they express their opinion about the disclosure of financial interests of members of Parliament. All of the Australian Labor Party members replied stating that they had no objection to the disclosure of financial interest and of those non-Labor Party members who replied, four favoured disclosure, one was non-committal, and one was against the proposition. Who knows what the remainder thought and who knows why the remainder are not prepared to express an opinion? Who knows whether they are intimidated by the Premier's public posture on the proposition and who knows the reason that they cannot disclose whether they favour disclosure?

The trend in other Parliaments is quite clearly towards disclosure of financial interests. This is occurring in New South Wales, Victoria, and the Northern Territory. It is also the case in Canada, the United States of America and in the mother Parliament, the House of Commons.

It is occurring in other parts of the world and other parts of this country. Why are we to be dragged screaming to the trough of public opinion? Why are members on this side of the House to be hoist upon the same weakness that the Government displays?

We are not afraid to disclose our interests, but the Government's unwillingness to do so is labelling us, along with its members, as people who perhaps have something to hide. I say again: Is there any member in this Chamber who has something to hide? Certainly I do not think the

Minister for Education has ever indicated that he has anything to hide.

Mr Grayden: I have nothing to hide.

Mr BRIAN BURKE: The Minister says, by interjection, that he has nothing to hide, and he begs the question: Does he oppose the disclosure of his interests? The Minister remains silent about whether or not he favours disclosure, but he says he has nothing to hide.

I heard another member ask whether I had anything to hide. I know that the concentration span of many members on the Government side of the House is not very great, but it was only a minute or so ago that I said all Labor members had replied saying that they favoured disclosure. It is not only members on this side of the House, but also the public generally, who want to know, individually and collectively, why it is that members of the Government parties in this place are so afraid to disclose their financial interests.

Mr Grayden: I do not think that is the situation at all. They cannot see any point in disclosure. What is the point in it?

Mr BRIAN BURKE: The Minister cannot see any point in a practice that is followed in the United Kingdom.

Mr Grayden: Any corrupt person could conceal an interest in a hundred different ways.

Mr Mensaros: It is not public disclosure in the United Kingdom.

Mr BRIAN BURKE: The disclosure in the United Kingdom is certainly semi-public in so far as the register is opened upon application.

Mr Mensaros: Yes, that is right.

Mr BRIAN BURKE: I am not saying that that is full public disclosure, if the Minister means full public disclosure—the nailing to the wall of the Parliament a list of members' interests. However, I am saying that access by members of Parliament to the register, if that is what is to be set up, is a desirable thing.

Let me deal with the Minister for Education and his interjection that there is no need for such a disclosure. It is strange, but not inexplicable, that the Minister should see no need for something that is reckoned to be necessary in the United States of America, that is reckoned to be necessary in the United Kingdom, that is followed in Canada, and that has been adopted by a Liberal Government in Victoria.

Mr Grayden: Does that make it right?

Mr BRIAN BURKE: This procedure has been adopted in the Northern Territory by a Government of the same political ilk as this Minister's, and it has been supported, and it is about to come into operation, in New South Wales.

Mr Coyne: A political stunt.

Mr BRIAN BURKE: Of course, that does not mean it is right or necessary to do so, but certainly it seems to indicate that a considerable body of opinion supports the proposition that there should be public disclosure of the interests of members of Parliament. We will not reach the situation where anyone can prove to the Minister's satisfaction that such a course is essential or satisfactory, but a considerable body of opinion in this country and in other countries supports such a proposition and this is a body of opinion from the public at large.

Mr Grayden: Have you ever heard of a single case? I have been here for 30 years, and I have not heard of a single case that you could point to.

Mr BRIAN BURKE: I am not sure whether the Minister is deliberately attempting to downgrade his own contribution, but there has been no disclosure of interests. How could there have been—

Mr Grayden: Goodness gracious me—

Mr BRIAN BURKE: —any conflict of public interest where there is no disclosure.

Mr Grayden: —surely somewhere along the line it could have been established that a member had some sort of interest that was not in the public interest, but that has not happened once.

Mr BRIAN BURKE: Is the Minister saying it is desirable that these things should be made public if there is a conflict of interests?

Mr Grayden: I am simply saying this: It would be well known anyway, wouldn't it?

Mr BRIAN BURKE: If it would be well known anyway, why does the Minister object to formalising the practice?

Mr Grayden: Because of the sheer hypocrisy.

Mr BRIAN BURKE: The Minister has moved from the proposition that it is unnecessary to one that it constitutes some sort of hypocrisy. If it is a case of hypocrisy, then I cannot see the worth in the Minister's earlier argument.

Mr Grayden: Tell me what it is going to achieve.

Mr BRIAN BURKE: Let us look at the recent example in regard to the Minister for Town Planning and Urban Development. Nobody levelled any criticism at her, but a difficult situation was avoided simply by the Perth City Council voting in a certain way in regard to a

proposal for a car park within its boundaries. That was a clear case of a conflict of interests.

Mr Grayden: There is provision for that, isn't there?

Mr BRIAN BURKE: Had the matter proceeded past the stage of being considered by the Perth City Council, and had it reached the Minister's desk, the Minister would have been confronted squarely with a case of conflicting interests.

Mr Grayden: And she would have declared her interests.

Mr BRIAN BURKE: All we are saying is that if we have public disclosure, those sorts of conflicts of interests will be obvious to everybody. Heaven forbid it, but should there be a Minister or member who does no want to disclose his own interests, the public would have access to that conflict, but we should not be dependent upon a member's rising in this place to say, "I am confronted by some conflict of interest".

Mr Grayden: Surely the things you suggest change virtually daily?

Mr BRIAN BURKE: The practice in other countries demonstrates clearly that the Premier's oft-used argument about waiting until there is a national need and a national lead is just so much nonsense. New South Wales has not waited for a national lead; it has shown some initiative. The Liberal Party in Victoria has not waited for a national lead. Already it has enacted legislation, and the Northern Territory has done the same thing.

Mr Grayden: They have been very hypocritical because they know it will achieve nothing.

Mr BRIAN BURKE: The Minister is prepared to call his Liberal Party colleagues in Victoria hypocrites. That is what the Minister seems to be saying.

Mr Grayden: You know what happens with the goldfields—the situation could change daily.

Mr BRIAN BURKE: What I am trying to say is that the Premier's argument about waiting for a national lead has been made obsolete by the fact that already his colleagues in other States are doing something which he is prepared to sit back and wait for the Federal Government to institute. So let us not be beguiled by the Premier's argument about a national lead.

Mr Grayden: Because they took that action, that does not make it right, and you know that only too well.

Mr BRIAN BURKE: I am prepared to dally with the Minister about the matter.

Mr Grayden: Tell me how we could stop members of the Opposition concealing their interests, because we could not. The whole thing becomes farcical.

Mr BRIAN BURKE: Obviously the Minister is rather uncomfortable about the proposition that he might be asked to disclose his interests.

Mr Grayden: Look, anybody can come to me and I will disclose them.

Mr BRIAN BURKE: I do not know whether the Minister is implying not only that members will conceal a conflict of interests, but that if a public register were set up, they would also perjure themselves in regard to their entry to that register.

Mr Grayden: Look, you tell me this—

Mr BRIAN BURKE: I can tell the Minister this: Members on this side of the House support the proposition.

Mr Grayden: Tell me how a—

Mr BRIAN BURKE: We want to disclose our interests. What do we have to hide? We want to disclose our interests; surely Government members want to also.

Mr Grayden: What if someone does not disclose the full facts?

Mr BRIAN BURKE: I think the Minister gives himself away because he accuses us of something that comes to his mind. We are the ones who are prepared to disclose our interests. It is elementary that if the disclosure is less than frank, there would be penalties. If it can be proved that a member failed to disclose his entire interests, the House has at its disposal sanctions to deal with that. However, I assure the Minister that, unlike him, we are not perturbed about disclosing our interests.

Mr Grayden: Nor am I.

Mr BRIAN BURKE: Then the Minister should agree with the motion that we are promoting.

Mr Grayden: You do not have to have legislation for that.

Mr BRIAN BURKE: The Minister now poses to us the fact that he agrees with the legislation, but he will not vote for it.

Mr Grayden: Rubbish! Absolutely hypocritical!

Mr BRIAN BURKE: The Minister does not mind disclosing his interests; he has just said so.

Mr Grayden: Absolute hypocrisy!

Mr BRIAN BURKE: If the Minister does not mind disclosing his interests, why is he so uncomfortably touchy about the whole matter?

Mr Sibson: Why should he?

Mr Carr: He protests too loudly.

Mr Sibson: Do you have something to hide?

Mr BRIAN BURKE: For the lately-arrived member for Bunbury, I am prepared to recount my argument slowly because I know he absorbs things at a lesser rate than most mortals. Let me say to the member for Bunbury that all Labor members in this Parliament have offered, in writing, to disclose their interests. We have nothing to hide.

Mr Sibson: I have a house.

Mr BRIAN BURKE: Is the member for Bunbury prepared to disclose his interests?

Mr Sibson: I own a house with the PBS, and a motorcar.

Mr BRIAN BURKE: Everyone is prepared to disclose his interests, but no-one will vote for the motion. The member for Bunbury tells us that he, along with the Perth Building Society, own a house and he owns a motorcar. He has disclosed his interests, and we would expect him to vote with us.

Mr Sibson: In fact, I told you a lie; I have two motorcars.

Mr BRIAN BURKE: The member for Bunbury has now completed his disclosure by adding one motorcar to the one he had previously. If the member for Bunbury is prepared to disclose his interests without the motion being passed, why is he not prepared to vote for the motion?

Mr Sibson: We have an extra pair of sheets at home also.

Mr MacKinnon: It is a stunt. Do you believe that members of local government, members of the Press, etc., should be prepared to disclose their interests?

Mr BRIAN BURKE: The Honorary Minister raises a difficult point, and I say to him that those people to whom he referred should hold their positions subject to some scrutiny; that is, some form of disclosure. However, he should not make the mistake that his Premier made. The Premier forgot that a year or two ago his own Government placed a requirement upon the people he now seeks to use in defence of the proposition we are putting forward to include them in legislation seeking the disclosure of interests. So members opposite should not be misled by the statement that members of Parliament are not prepared to force disclosure on other people. That is the hypocrisy of the situation.

The Minister for Education rises in his seat and says it is hypocritical to demand disclosure, and yet he voted for the legislation to force financial writers to disclose their own interests; and that is the nub of the problem. By the actions of Government members, they are refusing to allow us to participate in a register which should be set up.

Mr Sibson: Do you think your motion will run the country better and cheaper?

Mr Carr: No, we need to change the Government for that.

Mr Sibson: Answer the question: Do you think your motion will run the country better and cheaper?

Mr Grayden: They are not going to answer.

Mr BRIAN BURKE: The member for Bunbury—

Mr Sibson: Would it run the country better or cheaper?

Mr BRIAN BURKE: —asks whether the country could be run better and more cheaply if the motion were passed.

Mr Sibson: Yes, tell us how it could.

Mr BRIAN BURKE: Well, I think anything could run it better and cheaper than it is run by the present Government, so I suppose the answer is "Yes".

Mr Sibson: How can you run it cheaper when the Labor Party promises all these things—take over industry and nationalise everything?

Mr I. F. Taylor: Funny fellow.

Mr BRIAN BURKE: It is easy to see the Premier is not here.

Mr Sibson: I interject on—

Mr BRIAN BURKE: The organ grinder is away and the monkey is at large!

Mr Sibson: You said in Bunbury that the Government should have—

Mr BRIAN BURKE: Talk about the butcher and the block!

Mr Sibson: You said in Bunbury the Government must have more intervention, and that your Government would have more intervention. The people of Bunbury are still cringing.

Mr BRIAN BURKE: I would seek leave to include the member's speech in *Hansard*!

Mr Sibson: It is already in.

Mr BRIAN BURKE: We are not about the job of trying to avoid a serious question. The Honorary Minister highlighted the obvious implication of what we had to say when he said we should be looking seriously at other people who hold certain positions in the community. I

have told him that his Government has forced disclosure on certain people in this community, and yet it has refused to accept the obligation itself. The Government has refused to accept the obligation in the face of assurances by members on this side of the House that we are eager to participate in public disclosure.

Compelling reasons exist to support the proposition. Firstly, there is a need for public confidence in the political process. Whether or not the Minister for Education was right in saying that no-one can refer to a single situation where there has been a conflict of interests, does not alter the fact that today, tomorrow, or the day after, such a conflict could arise. That is the point of the motion.

We cannot guarantee the future from what has gone before. We need to be able to demonstrate clearly that the public has every expectation and right to have confidence in the parliamentary process. If we have nothing to hide, if we are prepared to force other members of the community in different professions to disclose their interests, what sort of cowards are we not to disclose our own interests? Why is it that it is good enough for others?

Mr Grayden: If the Press approached any member on this side of the House, they would be prepared to do it.

Mr BRIAN BURKE: Let me just nail down tight the Minister for Education on this point: Is the Minister undertaking that if the Press approach members opposite they will disclose their interests?

Mr Grayden: I am certain that would be the position—as far as I am concerned, at any rate.

Mr BRIAN BURKE: I cannot understand the Minister's reluctance. He is prepared to disclose his interests to the Press, but not to the public.

Mr Grayden: It is not a question of that; it is something which you could not police. For example, take a person who deals in shares; his shareholding may change daily. Are you suggesting your role is going to change daily? Your motion will not get over the fact that people will still be able to conceal their interests.

Mr BRIAN BURKE: The motion does not attempt to state in any way the form disclosure of interests should take; it simply seeks from the House an expression of opinion about the public disclosure of interests. It does not attempt to set out, as the Minister seems to want to imply, the steps by which it should take place. It simply seeks an expression from members of this Parliament about their attitude to public disclosure. That is what is being asked and sought. We are not seeking to impose some system of disclosure, some detailed requirement which governs and guarantees disclosure of all the changes to a member's shareholdings or certain other things. We are simply asking: Does the House accept in principle it is desirable to have public disclosure?

Mr Mensaros: If a private member introduced a Bill to further safeguard individuals' privacy, would you be the first one to support it?

Mr BRIAN BURKE: In the first instance, the Minister shows an abysmal ignorance of the public role of members of Parliament. He fails to realise that when people go into Parliament they surrender many of their private rights. They do so by virtue of the position they assume in making and changing laws which can make and break fortunes outside this place. For the Minister to say that because I would support the protection of a private citizen's liberties, I could not legitimately support this motion is pure nonsense.

I have said the public needs to have confidence in the political process, and legislators must place the public interest above their own private interests. No-one would seek to contradict that expression of opinion. All we are doing by way of this motion is giving some sort of public face to that expression of opinion. We are saying that if legislators must be prepared to place the public interests before their private interests, they should not be afraid to declare those interests.

Members of Parliament have an obligation to demonstrate the financial integrity of their decisions. They need to be not only honest, but also to be seen to be honest; that is very important. If the public cannot see that members of Parliament are self-evidently honest in their decision making, part of the process suffers as a result.

The next, and perhaps the least worthy of the reasons that members should support the motion, is simply that we should be about the job of safeguarding our own reputations against rumour and innuendo. Who of us in this place likes to be the subject of rumour and innuendo, as has been the case in years gone past in respect of certain members? Members opposite may not be interested in protecting their reputations, but we on this side certainly are. One of the reasons it is necessary for us to express our opinion on this matter is to safeguard our own reputations; that is important. Who says it is unimportant? No-one. Why then do not members opposite support my motion?

The last point I make in respect of this motion is that if there is a public disclosure of members'

interests, no member need feel at all hesitant about entering any debate. If the interests of members are well known, entry into any debate will be within the context established by the disclosure which has taken place. So, members will be less inhibited simply by the disclosure of their interests.

The Premier has changed his position somewhat. Those of us who have been here for a number of years will recall that the Premier's position was that there should be no disclosure; in fact, his position was similar to that of the Minister for Education today. The Minister for Education has not quite kept pace with the Premier on this matter because—if I read him correctly—the Premier now is saying that disclosure probably is not a bad idea, but it should be private disclosure. He would support private rather than public disclosure. Who are we going to let judge any conflict of interest?

Mr Herzfeld: Certainly not you.

Mr BRIAN BURKE: Are we going to show our interests to each other? Or are we going to give someone the onerous responsibility of being the judge, being privy to the financial interests of all members, and being responsible for deciding and pointing out when a conflict occurs? Is that what we are going to do?

Of course, any disclosure must be public. However, that does not mean the register of interests—if that is what we decide to establish—will be tacked to the front wall of Parliament House. Public access can be controlled according to a fair and proper formula, if that is what Parliament wants. However, there is no benefit to be gained by digging in our heels, as the Premier does, and insisting that it should be private disclosure.

In conclusion, I make one or two points. The first is that this motion does not seek to establish a series of procedures or conditions by which disclosure should take place; it simply seeks an expression of opinion on the matter by members. It is open for the Parliament to decide for itself how it will set about drawing up the guidelines to cover the disclosure of interests. For example, the Parliament could appoint a Select Committee, a Royal Commission, or a judicial inquiry; or it could adopt one of the existing systems in other States or countries. The motion does not attempt to force on members any form of disclosure. It simply seeks from members their opinions as to the desirability of public disclosure of their financial interests. It is hypocritical for members of Parliament to demand that other people disclose their interests—as we have done already—and to refuse to disclose their own.

If this motion is passed, I suggest it would be appropriate for all parties to submit their proposals as to how the next step will be taken. I am not suggesting we rush to judgment on how we disclose our interests. However, I am saying to members that whether or not they decide to support the motion today, the matter will be forced on them later; that is quite certain. I suggest that if members take the initiative now and set about disclosure of interests in a way that is appropriate and acceptable, it is likely that the system imposed on members will be more to their liking than it would be if it were forced on the Parliament by the pressure of public opinion. It is going to happen. Members on this side have said they support the proposition, and some members opposite have said they support it, too. It cannot be avoided, so it may as well happen at the behest of the Parliament, rather than as a result of pressure of the public.

I urge members to support the motion.

Mr BERTRAM: I second the motion.

Debate adjourned, on motion by Mr O'Connor (Deputy Premier).

GRAIN MARKETING AMENDMENT BILL (No. 2)

Returned

Bill returned from the Council without amendment.

RESERVES BILL (No. 2)

Receipt and First Reading

Bill received from the Council; and, on motion by Mrs Craig (Minister for Local Government), read a first time.

Second Reading

MRS CRAIG (Wellington—Minister for Local Government) [9.55 p.m.]: I move—

That the Bill be now read a second time.

This Bill comprises seven separate actions affecting Class "A" reserves and, in accordance with the practice for many years, has been brought before Parliament as late as possible in the session to enable as many amendments as possible to such reserves to be included.

Notes on the proposals have been made available to the Leader of the Opposition and I will table a copy of those notes at the conclusion of my second reading speech.

I will deal with each separate action in order of the Bill.

Agreement has been reached between the Public Works Department, the Public Service Board (Accommodation Committee) and the Town of Narrogin to the exchange of portion of Class "A" "civic centre site" Reserve No. 10523 for unvested "public building" Reserve No. 5630 at Narrogin. The purpose of Reserve No. 5630 is to be amended to "municipal purposes" and vested in the Town of Narrogin, and the portion of Class "A" Reserve No. 10523 now surveyed as Narrogin Lot 1617 and containing an area of 2 991 square metres is to be set apart for the purpose "public buildings". A right of way adjoining lot 1617 has also been surveyed and authority is now sought to excise a total area of 3 639 square metres from Class "A" Reserve No. 10523 which currently comprises 1.7965 hectares of land.

Class "A" unvested "park and recreation" Reserve No. 17957 at Mandogalup contains an area of 2.0234 hectares. The Class "A" classification and reservation was granted in 1960 to preserve an attractive array of peppermint and wattle trees which are still present. A road has been surveyed and constructed through this reserve, and as the road's area of 1 415 square metres exceeds one-twentieth of the reserve area, Parliament's authorisation is required to excise the road from this Class "A" reserve, for subsequent dedication as a public road.

Class "A" unvested "parklands" Reserve No. 14063 comprises about 95 hectares and is situated approximately 12 kilometres south of Manjimup. The land was originally reserved in 1912 to protect a picturesque spot and preserve a typical representation of karri forest in this area. The Royal Australasian Ornithologists Union has advised that a great deal of research has been carried out on this reserve and these studies are forming a major contribution to the understanding of the biology, behaviour, and population dynamics of karri forest birds. An examination of this reserve by the Department of Fisheries and Wildlife has confirmed the reserve to be of outstanding value to conservation and it is highly desirable that its purpose be changed to "conservation of flora and fauna". Vesting in the WA Wildlife Authority also will be arranged.

Unvested Class "A" Reserve No. 28220, is set apart for the purpose of "conservation of flora" and comprising an area of 523.374 9 hectares, is on the northern bank of the Gascoyne River, adjacent to the Carnarvon townsite. The Shire of Carnarvon has sought the excision from Reserve No. 28220 of an area of 39.901 2 hectares as calculated from survey information, for inclusion with other areas of Government reserves and closed roads, for subsequent separate reservation for "horse agistment". The Department of Fisheries and Wildlife has also requested the purpose of Class "A" Reserve No. 28220 be amended to include "fauna" and for this reserve to be vested in the Western Australian Wildlife Authority, which would recognise the existing classification as a nature reserve. The sanction of Parliament therefore is sought to this excision from this Class "A" reserve, and to the amendment of purpose and vesting.

The Metropolitan Water Supply, Sewerage and Drainage Board has requested a site be provided at Swan View to facilitate the construction of a water tank. The site covers portions of Class "A" John Forrest National Park Reserve No. 7537, unmade public road, and parklands Reserve No. 32485. Both the National Parks Authority and the Mundaring Shire Council have no objections to the excision from these areas for subsequent separate reservation for water supply purposes. Parliamentary approval is consequently requested to the excision of 2 892 square metres from Class "A" Reserve No. 7537 which currently comprises some 1573.7862 hectares.

Class "A" water Reserve No. 1916, comprising an area of 255.4 hectares, is situated on the banks of the Frankland River some 9.6 kilometres west of the Rocky Gully townsite along the Muir highway. The reserve is vested in the Minister for Water Resources, and control also was granted to the Shire of Plantagenet, both of whom have agreed to a Main Roads Department proposal to establish a rest area alongside the newly deviated Muir Highway within Reserve No. 1916. Authority is sought to excise the site surveyed as Nelson Location 13199 and containing an area of 9 035 square metres, from Class "A" Reserve No. 1916.

Under the terms of an agreement between the owner of freehold Victoria Location 4598 and the WA Wildlife Authority, it was agreed that an area of nearly 51 hectares be transferred to the authority free of charge on the condition that it be set apart as a Class "A" reserve for conservation purposes. Reservation was finalised several years ago, but through a misunderstanding it now seems that the agreement did not properly define the land and following representations by the Department of Fisheries and Wildlife, survey had been carried out to determine the extent of an area to be granted back to the owner. As the reserve has been classified Class "A" in accordance with the donor's request, it is

necessary to obtain the sanction of Parliament to excise the land from Reserve No. 32907.

I commend the Bill to the House.

During the course of my speech I indicated I intended to table some notes. I seek your permission to do so now, Sir.

Leave granted.

The papers were tabled (see paper No. 601).

Debate adjourned, on motion by Mr Barnett.

COUNTRY AREAS WATER SUPPLY AMENDMENT BILL

Returned

Bill returned from the Council with amendments.

LEGAL PRACTITIONERS AMENDMENT BILL

Second Reading

Debate resumed from 26 August.

MR BERTRAM (Mt. Hawthorn) [10.03 p.m.]: The purposes of this Bill are twofold: Firstly, it seeks to increase the number of members of the Barristers' Board under the Legal Practitioners Act. The constitution of the Barristers' Board is set out in section 4 of the Legal Practitioners Act and currently seven practitioners are elected to the board from time to time.

As the Minister pointed out in his second reading speech, there is clearly a need to increase the number of elected members. In this case it is proposed to increase the number from seven to nine and that seems to be reasonable. The Government has made out a case to do that and the Opposition supports the proposition.

The second point in the Bill is a rather interesting one. It is designed to amend sections 9 and 15 of the Legal Practitioners Act. Section 9 deals with articled clerks; that is to say, people who have passed certain examinations and who have entered into an apprenticeship. Having served their terms of articles satisfactorily, they are one step further towards being admitted as practitioners in the Supreme Court of the State.

Section 9 says, "no person shall be articled as a practitioner unless and until such person has satisfied the board that he is of good name and character and a British subject of the age of 16 years or upwards" and there are certain other requirements.

One of the purposes of the Bill is to delete the requirement that an articled clerk must be a British subject. Section 15(1) refers to the fact that no person may be admitted as a practitioner unless he is a British subject over the age of 21 years. There are further qualifications there.

The clear objective of this Bill is that, when it becomes law as it certainly shall—the Opposition can do nothing about it because it does not have the numbers—non-British subjects will be permitted to practise law in this State. That may or may not be a good thing; but it is worth while to observe that the requirement for people to be British subjects is rather rare in the laws of this State. For example, if one is to be registered as a builder, there is no requirement that one shall be a British subject, or if one wishes to be registered under the Real Estate and Business Agents Act, there is no requirement that one shall be a British subject. I could give members many examples of situations in which there is no requirement for a person to be a British subject under the laws of this State.

However, there are other Statutes in which the requirement of being a British subject is fundamental. For example, if one seeks to become a member of the Legislative Assembly, section 20 of the Constitution Amendment Act contains the provision that one must be a British subject. If one wishes to become a member of the other place, under section 7 of that Act one must be a British subject. If one wishes to have the right to vote at elections, our State and Federal laws state that one must be a British subject.

Therefore, it is interesting to observe what appears to be a pattern which is that, where people are involved in making, interpreting, and enforcing our laws up until the present time it has been thought desirable that they should be British subjects. The Minister did not refer to that aspect of the matter in his second reading speech and he should have done so.

Furthermore, if we examine the statistics, we see there is little need to remove the requirement that articled clerks and lawyers be British subjects under the Legal Practitioners Act. As I understand it, there is no shortage of lawyers. Indeed, there may well be a surplus of articled clerks. There are approximately 45 British Commonwealth countries and 15 British dependencies.

Therefore, there are approximately 60 countries from which British subjects according to our present laws may come to this State and practise, subject to their satisfying other requirements as to their competence, etc.

Bearing in mind that we appear to have enough lawyers and there are a number of British Commonwealth countries around the world from which lawyers can come to this State, I find it

difficult to understand why it has suddenly become necessary to delete these requirements in relation to British subjects. I ask: What is really going on here? What is the real reason behind this move?

Members should contrast this situation with the fact that a few weeks ago the Government in this place made it unnecessarily difficult for people to become electors and to enrol on the State electoral roll. The Government has made it more difficult for Western Australians to participate in the law-making process, but at the same time, through this sort of amendment, it seeks to allow foreigners to come here and have a direct influence upon law making and law enforcement.

It is also interesting to note that this amendment conflicts with the policy of the Federal Government. As I understand it, the Federal Government is disinclined to allow migrants into Australia unless they are able to meet certain requirements. One requirement is that, from the standpoint of their trade or profession, there is a need for them. In respect of this Bill no case has been made out to indicate there is a need to import legal practitioners. They are coming in in great numbers anyway as indicated by an answer to question 1999 on 29 September last which was directed by the member for Perth to the Minister representing the Attorney General and read, in part, as follows—

> (1) How many persons have been admitted to practise law in Western Australia in the last two years, with law qualifications obtained outside the State of Western Australia?

The answer was "103". That is a phenomenal number. I do not complain about that, but if 103 persons have been admitted from British Commonwealth countries in two years, why, out of the blue and without any real attempt at explanation, has the Government decided to remove this barrier? Who does the Government seek to allow to come and practise law in this State? Does it wish Russians, Chinese, Cubans, or Americans to practise law in Western Australia? I have no particular objection to such people coming to work in this State, but if that is what the Government has in mind, it should say so.

If my memory serves me correctly, the Minister for Health recently introduced amendments to the Dental Act and the Medical Act which were designed to stop the flow of dentists and medical practitioners into this State from overseas.

If they were British subjects, they could come, but if not, they were not allowed in so there is another extraordinary contradiction—legal practitioners will come to WA from all over the world and be allowed in, while only a couple of weeks ago this same Government placed a bar on dentists and medical practitioners except those coming from certain specifically delineated areas of the world.

Another interesting position develops. If this Bill becomes law, a legal practitioner will no longer have to be a British subject. This has been done for a purpose and not just for the heck of it and we have to assume that we will have people coming in to practise law who are not British subjects.

Mr Davies: Do they have to have any special training? Are some universities accepted and others rejected as with medical training?

Mr BERTRAM: The Barristers' Board acts very responsibly and satisfies itself in every way.

Mr O'Connor: Yes, it does.

Mr BERTRAM: Even though these people may have degrees and be practising elsewhere, the board still has to be satisfied that they have the competence and capacity to practise here. I do not mind that. It is fair, reasonable, and perfectly sensible and that is what is done.

In the Supreme Court Act section 8 says—

> The qualifications of a Judge of the Supreme Court shall be as follows—he must either be—
>
> (a) a person who is or has been a barrister or solicitor of a Court of not less than two years' standing and practice; or
>
> (b) a practising barrister of the English Bar or of the High Court of Australia of not less than eight years' standing.

That section does not say that he must be a British subject. In the future what will happen consequent upon the legislation before us is that we will have legal practitioners in Western Australia and judges of the Supreme Court who are not British subjects. I do not know if that is the Government's intention, but if it is, this Parliament should have been told about it.

Mr Davies: I think they are getting a few from Russia.

Mr BERTRAM: That could be so. I thought it was from Cuba. Maybe it is from both countries. If, as a non-British subject, one can become a judge of the Supreme Court, one can also become the Chief Justice. That is the next step. We could have a Chief Justice who is not a British subject either in consequence of this amendment. It is not uncommon for the Chief Justice to be also the

Lieutenant Governor of the State. That will be the next step. If it is the Government's intention, it should say so. These are the consequences of this amendment.

Judges of the District Court apparently will be in the same position. District Court judges can also be non-British subjects. Section 10(2) of the District Court Act states—

> A person shall not be appointed a District Court Judge unless—
>
> (a) he is or has been a barrister or solicitor of the Supreme Court of not less than eight years standing of practice; or
>
> (b) is a practising barrister of the High Court of Australia of not less than eight years standing.

There are no requirements for such a person to be a British subject.

Today, I asked question 2650 relevant to the Stipendiary Magistrates Act, which reads—

> (1) Have applications been currently called recently from persons seeking to be appointed as stipendiary magistrates?

The answer was, "Yes".

The second question was—

> If "Yes", must the applicants be British subjects?

The answer was, "No".

It appears that members of the magistracy and the judiciary from here on in can be and probably will be non-British subjects. If that is the case, the Government should tell this Parliament that that is what is involved. It is strange that a Bill should be here at all about non-British subjects. The Government has not made out a case. Therefore, an Opposition worthy of its name is entitled to know what is going on.

Often a second reading speech does not depict the situation accurately and does not even attempt to depict the real reason for a Bill. No case has been made out. On the one hand, we will have people here at the top strata of our judiciary and magistracy who are not British subjects, while on the other hand we will have people in the Privy Council in England changing and interpreting laws affecting people in Western Australia, who are British subjects but who, in some cases, have never been to Western Australia and have not got the faintest idea of what goes on here. They are 12 000 miles away and they determine what occurs in our State. It is a rather odd situation. British subjects who are 12 000 miles away are adjudicating on the laws of this State. Some of them have never been to Western Australia.

This Government resists every attempt put forward by the Opposition to put a stop to that nonsense. Many people no longer believe that Western Australia's laws should be finally determined by people who live 12 000 miles away. In addition, we will have people in this State who will be in the top echelons of our judiciary and magistracy who are not British subjects at all. What a mixture!

I do not propose to pursue the Bill further. It has come before the Assembly in an unsatisfactory manner. The Opposition can do nothing to bar its progress. It is a relatively minor Bill in length. It started its weary way through the upper House and down here months, not weeks, ago. It is quite ridiculous that 32 people in another place have looked at this Bill and 55 people down here are looking at the same Bill months later. In terms of efficiency, one wonders how our performance as a Legislature in respect of this Bill would rank. It is wasting our time and the taxpayers' money. We are dealing with matters like this twice over. It is quite ridiculous when the outcome of the Bill is a foregone conclusion. I do not know how much longer people of Western Australia will tolerate that gross inefficiency and waste of their money.

MR O'CONNOR (Mt. Lawley—Deputy Premier) [10.24 p.m.]: I never thought I would live to see the day when the member for Mt. Hawthorn would oppose what his colleagues have supported in the upper House and what the Labor Party has supported, and also on the same day support what Joh Bjelke-Petersen has done. Members in another place did support this Bill and it was pointed out in this House that this legislation, if it comes into being—and I sincerely hope it will—will apply in all other States of Australia with the exception of Queensland. That is why I was rather surprised to see that the member supported one of Joh's particular issues.

In connection with people being British subjects, the board is of the opinion that the removal of British subject provisions will not bring about a flood of applications in this regard. It also says the basic areas of law expertise which lawyers must have to seek admission are a demonstrated knowledge and experience on contracts, tort, criminal law, transfer of property, and Australian constitutional law. In addition, the policies require most overseas applicants to spend some time in legal offices practising here before they are admitted. There are safeguards to ensure that people operating in that field are sufficiently qualified, once a person does enter this country as a permanent resident. The member for Mt. Hawthorn has a number of permanent residents

in his electorate who have migrated to this country from overseas and I am sure he wants them to operate in the profession in which they are qualified and are able to earn a living. We do not have disagreement in relation to that aspect.

I commend the Bill to the House.

Question put and passed.

Bill read a second time.

In Committee, etc.

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

Third Reading

Bill read a third time, on motion by Mr O'Connor (Deputy Premier), and transmitted to the Council.

House adjourned at 10.29 p.m.

QUESTIONS ON NOTICE

RECREATION: AQUATIC CENTRE

Beckenham

2641. Mr BATEMAN, to the Minister for Urban Development and Town Planning:

(1) As there has been a proposal put to her by a certain real estate developer to allow an aquatic centre to be built in the Wimbledon-Packer Street area in Beckenham, will she take into consideration all the facts surrounding this proposal and the effects it will have on the old residents established in the district?

(2) Will she also take into consideration that this proposal was refused by the Gosnells City Council on the grounds of disruption by noise, etc., which possibly would be detrimental to the well being of the residents?

(3) If not, why not?

Mrs CRAIG replied:

(1) If the member is referring to an appeal which is currently before me, the answer is "Yes".

(2) In point of fact, the application for approval to commence development was refused by the Metropolitan Region Planning Authority. However, I will take into consideration such factors as possible noise and disruption to the environment.

(3) Answered by (1) and (2).

WORKERS' COMPENSATION AND ASSISTANCE BILL

Proclamation: Date

2642. Mr I. F. TAYLOR, to the Minister for Labour and Industry:

(1) What is the anticipated date of proclamation of the new workers' compensation legislation?

(2) What is the proposed course of action with respect to advising selective pensioners 65 years of age and over of their options, rights and obligations under the new legislation?

Mr O'CONNOR replied:

(1) February 1982 (anticipated).

(2) Schedule 5, clause 3(2) provides that workers 65 years of age or over have a period of one year in which to make the elections provided for under the legislation. Upon proclamation of the Act, the State Government Insurance Office could be expected to advise pneumoconiosis sufferers of their rights, options, and obligations under the new legislation.

FISHERIES

Salmon

2643. Mr BARNETT, to the Minister representing the Minister for Fisheries and Wildlife:

(1) Is it a fact that the Minister recently transferred a salmon concession from one part-time fisherman to another part-time fisherman in the Albany region?

(2) Is it a fact that this salmon fishery is a limited entry fishery?

(3) Is it a fact that many full-time professional fishermen are not permitted to have licences in this limited entry fishery?

(4) Is it a fact that the transfer of this licence from one part-time fisherman to another part-time fisherman conflicts with stated departmental policy on the transfer of salmon concession licences?

Mr O'CONNOR replied:

(1) Yes. E.A. Coombe was one of the pioneer salmon fishermen at Shelley Beach and has continuously held the licence, fishing the area with his sons. The Coombe family has been involved since the late 1800s in the primary industry sector making a living from farming and fishing. The application for the transfer of the licence followed E.A. Coombe's unfortunate deterioration in health, necessitating kidney dialysis treatment in Perth, a factor taken into account before the licence was transferred to his son D. Coombe.

(2) Yes.

(3) Yes.

(4) No. The stated policy reads—

(a) A decision is taken as to whether or not the beach should be available for further salmon fishing on the retirement of the present holder of the authorisation.

(b) If the beach is to be available for further salmon fishing, approval would be granted for the authorisation to pass to a team member if that person was clearly the most appropriate person to hold the concession.

(c) If the beach is to be available for further salmon fishing and there is no obvious person to whom it should be passed, as set out in (b) above, the availability of the beach would be advertised and a selection made from applicants who qualify as professional fishermen.

TIMBER

Sawmills

2644. Mr BARNETT, to the Minister representing the Minister for Forests:

(1) For the years 1979-80 what was—

(a) the number of sawmills licensed to operate in Western Australia;

(b) total sawn output from Western Australian sawmills in m^3;

(c) proportion of softwoods in the sawn output;

(d) volume of hardwood chiplogs taken from State forest in m^3;

(e) number of sawmill employees including bush workers in Western Australia;

(f) average number of sawmill employees including bushworkers per 10 000 m^3 of sawn output?

(2) For the financial year 1980-81 what did the Forests Department pay into Consolidated Revenue Fund in—

(a) royalties;

(b) pine conversion;

(c) hardwood conversion;

(d) other sales and fees;

(e) recoupable projects?

(3) For the financial year 1980-81 what was the Forests Department's revenue from—

(a) balance brought forward;

(b) Commonwealth aid road grants;

(c) Commonwealth softwood agreement;

(d) mining compensation;

(e) Consolidated Revenue Fund contribution;

(f) General Loan Fund;

(g) conservator's borrowings;

(h) sundry revenue;

(i) any other sources?

(4) During each of the financial years 1976-77 to 1980-81, what area of—

(a) previously unlogged forest; and

(b) previously logged forest,

was logged in—

(i) karri forest type; and

(ii) jarrah forest type?

(5) In the most recent year for which figures are available, what volume of logs went to the following mills, and what volume of sawn timber did each produce:

(a) Bunning Bros. Collie 1 and 2;

(b) Northcliffe;

(c) Pemberton;

(d) Deanmill 1 and 9;

(e) Millars Jardee and Quininup?

Mrs CRAIG replied:

(1) (a) 1979—133
1980—133

(b) 1979—349 280 m^3
1980—352 811 m^3

(c) 1979—5.19 per cent
1980—6.07 per cent

(d) 1979—454 096 m^3
1980—562 291 m^3

(e) 1979—2 033
1980—2 088

(f) 1979—58.2
1980—59.2

(2) (a) $8 305.300

(b) $4 523.181

(c) $445.294

(d) $1 826.796

(e) $681.874

(3) (a) $486.722

(b) $286.245

(c) $811.352

(d) $796.672

(e) $20 133.004

(f) $3 000.000

(g) $1 200.000

(h) $139.353

(i) —

(4) (a) (i) 1976-77—1 092 ha
1977-78—1 429 ha
1978-79—1 884 ha
1979-80—1 469 ha
1980-81—1698 ha

(ii) 1976-77—4 906 ha
1977-78—3 601 ha
1978-79—2 496 ha

1979-80—2 121 ha
1980-81—1 584 ha
(b) (i) 1976-77—1 522 ha
1977-78—865 ha
1978-79—823 ha
1979-80—639 ha
1980-81—381 ha
(ii) 1976-77—24 526 ha
1977-78—19 558 ha
1978-79—20 863 ha
1979-80—20 039 ha
1980-81—20 335 ha

(5) In the 1980-81 fiscal year volumes of logs for each mill concerned are listed below—

(a) Bunning Bros. Collie No. 1	41 447
Bunning Bros. Collie No. 2	7 531
(b) Northcliffe	36 458
(c) Pemberton	84 842
(d) Deanmill No. 1	84 392
Deanmill No. 9	Not operating
(e) Millars—Jardee	36 661
Millars—Quininup	31 242

Information concerning sawn timber production is confidential for commercial reasons.

HEALTH: MENTAL

Patients: Fremantle Hospital

2645. Mr HODGE, to the Minister for Health:

Further to question 1665 of 1981 relating to psychiatric patient admission, can he confirm that it is still a fact that no decision has been made to admit psychiatric patients to the Greenslade wing of Fremantle Hospital?

Mr YOUNG replied:

My answer to part (24) of question 1665 still applies.

EDUCATION: REMEDIAL READING CLINIC

Geraldton

2646. Mr CARR, to the Minister for Education:

(1) With reference to a proposal to establish a remedial reading clinic in Geraldton for the 1982 school year, is it a fact that this project is now in doubt?
(2) If "Yes", what is the reason for the doubt?
(3) If "No" to (1), will he please give me a progress report of the arrangements being made?

Mr GRAYDEN replied:

(1) and (2) No. Present plans are to establish a clinic if a suitable teacher is available and adequate accommodation can be provided.
(3) Not applicable.

EDUCATION: HIGH SCHOOL

John Willcock

2647. Mr CARR, to the Minister for Education:

I refer him to his comment during debate on the education estimates that I well knew the reasons that John Willcock High School would not proceed to year 11 in 1982. In view of the fact that I am not aware of the reasons and find such a decision incomprehensible, will he please detail the reasons?

Mr GRAYDEN replied:

Although reasons for not upgrading the John Wilcock High School have been well publicised through the parents and citizens' association and local media I accept that the member may not be fully aware of the situation and will supply the information he requests by letter.

EDUCATION: HIGH SCHOOL

Tuart Hill: Parking Facilities

2648. Mr BERTRAM, to the Minister for Education:

What arrangements have been made to cater for the motor vehicle parking requirements of the students and staff of the proposed senior college at Tuart Hill?

Mr GRAYDEN replied:

88 bays are being established on the school site.

HEALTH: DISABLED PERSONS

Handicapped Persons Equal Opportunity Act

2649. Mr STEPHENS, to the Minister for Health:

(1) Has he obtained a copy of the South Australian legislation to provide a

Handicapped Persons Equal Opportunity Act?

(2) If "Yes", has he studied it and is the Government prepared to introduce similar legislation in Western Australia?

(3) When will it be introduced?

Mr YOUNG replied:

(1) Yes.

(2) The Government has endorsed the principles in the United Nations Declaration on the Rights of Disabled Persons but does not propose at this stage to enact legislation similar to that contemplated in South Australia.

(3) Not applicable.

MAGISTRATES: APPOINTMENTS

British Subjects

2650. Mr BERTRAM, to the Minister representing the Attorney General:

(1) Have applications been called recently from persons seeking to be appointed as stipendiary magistrates?

(2) If "Yes", must the applicants be British subjects?

Mr O'CONNOR replied:

(1) Yes.

(2) No.

EDUCATION

Early Childhood Services, and Disabled Children

2651. Mr WILSON, to the Minister for Education:

(1) Is the Government proposing to move the child care course and the course for 400 part-time students training to work with the disabled, from the former kindergarten college building at 1186 Hay Street, West Perth?

(2) Why are these courses being moved elsewhere and what alternative use is to be made of these buildings?

(3) Where are the child care course and the course for those training to work with the disabled to be provided with alternative premises?

(4) Did he previously give an assurance that the older section of the buildings on this site would be reserved for use by pre-school organisations which would also have access to the hall and the early childhood resource library, which would remain in the college building?

(5) Do new proposals for the college building include its conversion into office accommodation?

(6) In view of the fact that this building was provided for the purposes of early childhood education with the proceeds of a public appeal and the efforts of kindergarten groups all over the State which contributed to it, what authority does the department or the Government have to alter drastically the use to which these buildings are to be put?

Mr GRAYDEN replied:

(1) Yes.

(2) Future use of the main building is under consideration. The courses are being moved so that similar subject offerings elsewhere can be linked with courses now being offered at separate locations.

(3) Perth Technical College.

(4) Yes, and this is to occur.

(5) Refer to (2).

(6) Over half the cost of the main building was paid for using a Commonwealth grant and the buildings are vested in the State. Services for young children will still be located in the Meerilinga section of the buildings.

WATER RESOURCES: USE

Domestic Study

2652. Mr WILSON, to the Minister for Water Resources:

(1) Can he confirm that the Metropolitan Water Board is currently carrying out a domestic water use study?

(2) If "Yes", what publicity has been given to this study?

(3) How many homes are involved in the study and in which suburbs is it being conducted?

(4) How many interviewers are being used in carrying out the study and how many visits will an interviewer make to each home?

(5) Does the study involve the installation of temporary water meters at the properties concerned?
(6) If "Yes" to (5), how many visits will be involved to each property for the installation, checking and removal of temporary meters?
(7) Does the study involve the measurement of lawn and flower beds?
(8) Does the questionnaire include a question about family income?
(9) What is the purpose of the study and what is the estimated total cost involved?

Mr MENSAROS replied:

(1) Yes.
(2) A ministerial Press statement was issued on 20 May 1981 and an article was published in *The West Australian* on 21 May. The study has received publicity in other sections of the media.
(3) It is planned to obtain 2 600 satisfactorily completed fortnight diaries from homes selected on a random basis throughout the Metropolitan area.
(4) Twenty interviewers are employed and each home is visited 19 times.
(5) Yes, attached to all outside taps.
(6) Two visits.
(7) Yes, during the three summer months of December to February inclusive.
(8) Yes, but answering is optional.
(9) It is a scientifically designed study prepared in conjunction with the Australian Bureau of Statistics, CSIRO and the University of WA to—

(a) identify domestic water-using activities and determine the quantity used for each activity;
(b) assess the influence of household characteristics and weather on the level of use.

From the data the board will be able to—

improve its methods of forecasting future demand;
advise consumers on ways in which they can use water more efficiently;
study the likely effect of any proposed changes to the pricing policy.

Total estimated cost is $727 000, spread over four financial years. The study commenced in 1979-80. 1981-82 is the year in which field data is being collected. The study has been partially funded by the Commonwealth Government.

EDUCATION: HIGH SCHOOLS

Girrawheen, Morley, and Thornlie

2653. Mr WILSON, to the Minister for Education:

(1) What estimate has been placed on planned improvements to the manual arts centre at Morley Senior High School to overcome the noise problem which has affected proper use of the centre since its completion over eight years ago?
(2) Has provision for work on these improvements been made in the current Budget?
(3) If "No" to (2), why is this work to be delayed further when the need for these improvements have already been under consideration for at least three years and similar improvements have long been incorporated in manual arts centres of the same design at Thornlie and Girrawheen Senior High Schools?
(4) When is it now likely that these improvements, needed to allow for proper teaching conditions and to counter major noise nuisance, will be carried out?

Mr GRAYDEN replied:

(1) $90 000.
(2) No.
(3) and (4) The work is to be undertaken from the States Grants (Schools Assistance) Act 1981 with the project commencing in July or August of 1982.

HOUSING: INTEREST RATES

Mortgage Assessment and Relief Committee: Application

2654. Mr WILSON, to the Honorary Minister Assisting the Minister for Housing:

(1) Can he confirm that at least one applicant for mortgage relief has been rejected by the mortgage assessment and

relief committee on the grounds that he has too much equity in his house and in spite of the fact that his monthly repayments have risen by $70 per month over the last nine months and his property is valued at only $47 000, has recommended that he sell his house and buy a cheaper one?

(2) Does he approve this decision by the committee in view of the fact that the person concerned has gross weekly income of only $240 and obtained his land from the Urban Lands Council?

(3) Why is the committee not prepared to offer relief following a moderate reduction in repayments rather than requiring the disruption and disadvantage involved in the sale of a home and relocation of the family involved?

Mr LAURANCE replied:

(1) to (3) The mortgage assessment and relief committee has not made any recommendations whereby a family needs to sell a house and buy a lower priced one.

In cases where an applicant has a high equity the committee would recommend that the lending authority restructure the mortgage, resulting in a reduced monthly repayment.

As has been indicated before, when the committee set the guidelines it did not make them over-restrictive. The committee looks sympathetically at each case individually, and I am satisfied that families with a genuine need have been assisted without their having to sell their homes. One of the basic reasons for setting up the committee was to avoid families of moderate means having to sell their homes.

HOUSING: SHC

Dianella Drive

2655. Mr WILSON, to the Honorary Minister Assisting the Minister for Housing:

(1) What stage has been reached in the State Housing Commission's plans to develop Dianella Drive?

(2) When will work commence on the new road and when is it likely to be completed?

(3) Will the pedestrian overpass to be constructed at the commission's expense be installed to coincide with the completion of the road?

(4) If "No" to (3), when will the pedestrian overpass be constructed?

(5) Has the commission received new proposals from the City of Stirling for the eastern end of Hannaby Street and the northern section of Grand Promenade to become cul de sacs in association with the construction of the new road?

(6) If "Yes" to (5), has the commission approved of these proposals?

Mr LAURANCE replied:

(1) Public tenders have been invited for construction of the road and these close at the commission on 7 December 1981.

(2) Subject to satisfactory tender the contract which will then proceed will involve the construction of the road, an underpass and an overpass as well as modification to existing roads which connect at either end is estimated to take some 26 weeks.

(3) Yes.

(4) Answered by (3).

(5) No.

(6) Answered by (5).

EDUCATION: PRIMARY SCHOOL

Koondoola

2656. Mr WILSON, to the Minister for Education:

(1) Can he confirm that security patrols at Koondoola Primary School are to be ceased?

(2) If "Yes", what justification is there for the cessation of patrols when this school averages one break-in per week and last week suffered damage to the tune of $2 500 to glass windows and doors as a result of vandalism?

(3) Why should this particular school be left without any security when two neighbouring schools have Centascan monitor alarm systems to protect them from the wasteful damage and disruption to the school's programme which result from frequent break-ins and damage to buildings and equipment?

(4) In the light of the on-going security problems being experienced at this school, is he prepared to continue the security patrols and consider the installation of a Centascan monitor security alarm system as an alternative?

Mr GRAYDEN replied:

(1) Yes.

(2) The 1981-82 allocation for the maintenance of buildings and grounds necessitated a reduction in the number of security patrols.

(3) Existing electronic security devices are being maintained.

(4) The installation of additional electronic security devices will occur as soon as funding permits.

HOUSING: FLATS

Emergent: Mirrabooka

2657. Mr WILSON, to the Honorary Minister Assisting the Minister for Housing:

(1) Further to his answer to question 2612 of 1981 relevant to the emergency allocation of flats, how does he explain the difference between the information provided in that answer about State Housing Commission flats in Lockridge being available with no delay for emergent and wait-turn applicants and that being given to applicants at the Mirrabooka regional office that there will be indefinite delays in allocating such accommodation due to delays in the completion of maintenance?

(2) If there is need to revise the information given in the previous answer, will he now indicate in precise terms, the exact position regarding the waiting period for those on emergency listings for flat accommodation in the area administered by the commission's Mirrabooka office?

Mr LAURANCE replied:

(1) There is no difference between the answer of question 2612 of 1981 and that which should be given to public enquirers at the Mirrabooka regional office.

It is difficult to be precise in what actually transpires verbally but steps have been taken to ensure that officers dealing with such inquiries are properly briefed on how to answer such matters.

(2) Answered by (1).

ABORIGINES: PRE-PRE-SCHOOL

Centre: Scarborough

2658. Mr WILSON, to the Minister for Education:

(1) Can he confirm that when the Aboriginal pre-pre-school at Scarborough lost the use of the surf life saving clubroom for its activities recently and had no other venue to operate from, the early childhood branch suggested that it operate on the beach?

(2) In view of the Government's undertaking to assist groups catering for younger children in obtaining facilities at available pre-primary centres, what efforts are being made to find suitable accommodation for this group of disadvantaged children whose teacher has been unable to locate alternative premises?

(3) In view of the fact that a demountable building has been provided for another pre-pre-school group on the grounds of the Hilton Primary School, will the department consider making equivalent provisions for the Scarborough pre-pre-school group in that area?

(4) If "No" to (3), why not?

Mr GRAYDEN replied:

(1) No.

(2) This centre is not an Education Department pre-primary centre. Nevertheless, senior officers of the North-west Regional Education Office have been endeavouring to locate alternative premises in an Education Department or shire building.

(3) and (4) The funds used for the Hilton group were provided by the Commonwealth and similar arrangements would be made for the Scarborough group but there are no further capital funds available from that source in this financial year.

COMMUNITY WELFARE: CHILDREN

Custody

2659. Mr WILSON, to the Minister for Community Welfare:

(1) Can he confirm that following a divorce, in cases where the parent with the custody of a child dies, the Community Welfare Department becomes guardian of the child and in seeking foster parents for the child adopts a policy of giving no preference to the surviving natural parent?

(2) If "Yes", does this indicate that the department in making such arrangements, involves itself in allotting fault to one or other of the parties to the divorce?

(3) Why does the department adopt this policy and practice in view of the fact that the family law legislation and the Family Law Court has dispensed with judgments based on alloting fault or blame to either parties to a divorce?

Mr HASSELL replied:

(1) The statement is incorrect.

In such circumstances the Director of the Department for Community Welfare could only become the child's guardian by order of a court or by order of the Minister for Community Welfare. An application for such an order would not be made if there was a family member available and suitable for the care of the child. Furthermore an order would normally not be sought if a suitable person, not a family member, was prepared to care for the child.

Under the Commonwealth Family Law Act 1975, section 61(4), the custody of the child does not automatically revert to the other parent on the death of the parent having custody. In such circumstances an application for custody would have to be made to the Family Court and any person who had the care of the child would be entitled to be a party to the proceedings.

If the Director for Community Welfare is appointed guardian of the child then in deciding on who should care for the child, the child's welfare will be considered foremost.

(2) Not applicable.

(3) Not applicable.

STATE FINANCE

Short-term Investments

2660. Mr BERTRAM, to the Treasurer:

What rates of interest are currently being paid on the short-term investment of surplus cash held by the Government?

Sir CHARLES COURT replied:

Current short-term investments of Treasury cash balances carry a range of interest rates, depending on the timing of the investments and the terms for which funds were placed.

In respect of cash invested as at yesterday, 17 November 1981, the weighted average rate of interest was 14.5 per cent.

HEALTH: TOBACCO

Studies: Committees

2661. Mr BERTRAM, to the Premier:

(1) How many Government committees are currently giving consideration to ways and means of reducing the carnage occurring as a direct consequence of people having smoked cigarettes?

(2) Will he identify each committee and state when it was established and the results thus far achieved?

Sir CHARLES COURT replied:

(1) Although there is no committee as such, the Public Health Department does have statistical information in connection with morbidity, including those diseases known to be related to smoking. The Government has, however, established a committee under the chairmanship of Dr H. S. Williams to examine the monitoring of the advertising of tobacco products.

In addition, a subcommittee of the Standing Committee of Health Ministers is examining the whole question of consumption of tobacco and Dr J. T. Cassidy, Director, Chest and Tuberculosis Services, represents Western Australia on that committee.

(2) Not applicable.

EDUCATION: HIGH SCHOOL

Tuart Hill: Zone Classification of Land

2662. Mr BERTRAM, to the Minister for Urban Development and Town Planning:

What is the present zone classification for the land presently occupied by Tuart Hill Senior High School?

Mrs CRAIG replied:

The land is reserved under the Metropolitan Region Scheme and the City of Stirling district town planning scheme as a high school site.

HEALTH: TOBACCO

"Smoke-alert Week"

2663. Mr BERTRAM, to the Minister for Health:

(1) What results were achieved by the smoke alert week which was held recently in this State and was supported by the Public Health Department?

(2) What was the cost to the Government of smoke alert week?

Mr YOUNG replied:

(1) Smoke alert week increased public awareness and has resulted in an upsurge in demand from schools, community groups and individuals for health education material related to smoking.

(2) $1 850.

QUESTIONS WITHOUT NOTICE

HOUSING: INTEREST RATES

Campbell Report: Deregulation

805. Mr BRIAN BURKE, to the Treasurer:

(1) Does the Government support the part of the recommendation of the Campbell committee of inquiry that advised it is desirable to deregulate the banking industry?

(2) Does the Treasurer concede that deregulation is likely to cause an escalation in home loan interest rates?

(3) Is he prepared to make representations to the Federal Government in an effort to prevent that Government's accepting the deregulation recommendation?

Sir CHARLES COURT replied:

(1) to (3) The Campbell committee report has been just released as the member knows. In fact, we have been able to get a copy of it only today. A working party from our Treasury is considering the report and I understand the Commonwealth Government has a similar working party doing the same thing, but on a more elaborate scale. I think it is wise to adopt that course because the report is comprehensive; it consists of about 900 pages and includes more than 200 recommendations.

One of the difficulties with a report of this kind is that one may end up falling in love with some parts of it and having a real hatred of other parts. It is a matter of judgment as to which parts one accepts or rejects. The Commonwealth Government may have to make up its mind as to whether it accepts the report as a package. My view is that it would be too difficult to accept as a package, even if we allowed a certain amount of time, and for political decisions to be made.

Before dealing with the specific point raised by the members—I think this is of interest to him—I say that before the report actually came out we realised it would be comprehensive, and all the information coming from various quarters indicated the report would be rather revolutionary. It is now about 10 days since senior officers from State Treasuries and the Federal Treasury met to determine the best way to handle the document when it finally came out.

The decision was made to wait until the Federal Government has a chance to study the document in some detail. At the conclusion of that study State and Commonwealth Treasury officers involved will meet to consider the report in the light of State and Commonwealth studies. I understand a tentative date of 10 December has been set for that meeting.

I mention these matters to indicate it would be quite irresponsible to rush in to form any opinions so far as the deregulation of interest is concerned. I have expressed the view publicly today that this matter is one which needs to be handled with great sensitivity; now is not the time to carry out deregulation. Interest rates are now very high, and there is a certain amount of argument within the financial world as to whether rates have peaked under the present system.

One would need the wisdom of Solomon to predict what would happen if the rates were subject to free and open competition. Under some circumstances there might be more money available for housing, but the money would be dearer. My view is that it would be very ill-advised to adopt the deregulation recommendation at this stage because of the present atmosphere in relation to interest rates. However, if interest rates were on the way down and, obviously, there was a free supply of money, more money at a cheaper rate may be available for housing through a deregulated industry. Having considered the document briefly, our immediate judgment is that deregulation at this time is ill-advised.

MINING: DIAMONDS

Royalties: Profitability-based

806. Mr BRYCE, to the Minister for Resources Development:

(1) In the light of the decision of the Northern Territory Government to impose a profitability-based royalty of 35 per cent as from 1 January 1982 on all mineral production, will he indicate why the Government selected the level of 22 per cent for the Argyle venture?

(2) In the light of the legislation introduced in this House today effectively to make it illegal for Western Australians to have uncut diamonds in their possession, can he indicate what advice should be given to Western Australians who currently have uncut diamonds in their possession?

Mr P. V. JONES replied:

(1) The member probably is not fully aware of what the Northern Territory Government has done in the last few days. It has deferred the introduction of its legislation because of problems the Northern Territory Government has found with it. I understand the NT Government has reached the stage of being unable to implement the legislation, and has put it on the back burner for a while. If the legislation is proceeded with it must be understood that its definitions are considerably different from those contained in the legislation—the agreement—introduced in this House today. There is no relativity between the two pieces of legislation other than in their principles. The application of the kind of resource being developed and the financial structure of the project in the Northern Territory is entirely different from similar things related to the project in this State.

(2) If the member studies a little more the security provisions of our legislation and the amendments proposed to the Police Act he will find that it is not a straightout offence to have uncut diamonds in one's possession.

Mr Bryce: I wanted to clarify the position for people.

Mr P. V. JONES: The exact wording of the provisions and the proposed amendments escape me, but an onus requirement will apply. If a person having uncut dimaonds in his possession cannot satisfy the person questioning him, whether it be a police officer or a security officer, as to the source of or the reason for his having those diamonds, that person may be committing an offence.

AUSTRALIA POST: POST OFFICES

Downgrading

807. Mr EVANS, to the Premier:

This question may seem to be out of the Premier's province, but I assure him it is not. I ask—

(1) Is he aware a number of post offices in Western Australia will be downgraded in 1982?

(2) What representations have been made by this Government to the Commonwealth Government to point out the inconveniences and hardships this action will cause to country towns such as Nannup and Pemberton?

(3) What has been the result of the representations?

Sir CHARLES COURT replied:

(1) to (3) I have been informed that a number of post offices have been threatened with downgrading and that some have been downgraded already, including at least one in my electorate. I am aware of what has happened and the procedures followed. As a general principle our views are known to the Commonwealth; we do not like anything that adversely affects the community in terms of an essential service, but I must make it clear that the final decision rests with the Commonwealth because it is responsible for post and telegraphic services.

In my experience, members of both sides of the House when they determine that something like this is about to happen in their electorates are fairly quick off the mark to make representations to the Federal member covering their electorates and to the Federal Minister responsible. Most effective representations in this case have been made by members of the House personally and by their joining with local communities which have special reasons for protesting.

SITTINGS OF THE HOUSE

Hours

808. Mr SHALDERS, to the Premier:

Can he advise whether it is anticipated that this House will sit on Thursday evenings after the dinner suspension, including this Thursday and all other Thursdays until the end of the session?

Sir CHARLES COURT replied:

I understand my colleague, the Deputy Premier, has discussed this matter with the Opposition. It was decided that we will as from tomorrow sit after 4.30 p.m. and then after the dinner suspension as requisite—I think that is the term used—on Thursdays until the end of the session.

I have advised the Leader of the Opposition that with the exception of one Bill, all Bills have been presented. The exception is the Northern Developments Pty Limited Agreement Amendment Bill which is to ratify an agreement in relation to Camballin. Either notice has been given of all Bills, or they are listed on the notice paper in the Legislative Council or here. I am not quite sure of the stage the Northern Developments Pty. Limited Agreeent Amendment Bill has reached, but I know the Minister for Local Government will handle its passage in this House on behalf of the Minister for Lands. I understand it will be ready today or, at the latest, tomorrow.

WATER RESOURCES: EFFLUENT

Point Peron: Pipeline

809. Mr BARNETT, to the Minister for Water Resources:

(1) In relation to the Point Peron sewage effluent pipeline, is it a fact that Binnie and Partners Pty. Ltd. is the head consultant for the project?

(2) If that is a fact, why was it necessary for Mr Batty to be paid travel expenses to go to Hong Kong and speak to representatives of Binnie and Partners there when that firm already has an establishment in Perth and the Metropolitan Water Board uses its services?

Mr MENSAROS replied:

(1) Binnie and Partners are consultants for the project, but I do not think anyone has used the expression "head consultants".

(2) As the member would know, most of the large consultancy firms—Binnie and Partners is indeed very large in terms of the number of people it employees and the number of professional staff it has—have in various parts of the world offices which take on different problems. Sometimes the different establishments are laboratories or carry out technical work which is not necessarily the same as that carried out in another establishment.

I do not know specific details about the establishment of Binnie and Partners at Hong Kong as I have never visited it.

INDUSTRIAL RELATIONS

Private Enterprise

810. Mr PARKER, to the Premier:

(1) Has the Premier read the letter in this morning's paper from the President of the Perth Chamber of Commerce (Mr Ken Court) stating that it is about time the senior managers woke up to the fact that they, too, are to blame for the chaotic state of industrial relations in this country?

(2) Does the Premier agree with the statements contained in that letter about private enterprise?

(3) Does he think they may have application to the management by Ministers in their role as employers of Government workers in this country?

The SPEAKER: Order! I will allow the Premier to answer the question, but I point out to the member for Fremantle that the question is really out of order because he is asking for an expression of opinion. However, I draw attention to that fact and ask members to take note of it when they prepare questions without notice.

Sir CHARLES COURT replied:

(1) to (3) I have to admit that I have not read the letter in detail, although I have noticed who wrote it. From what the member has told me in asking his question, the sentiments expressed seem to be consistent with what the Government has been saying very consistently and clearly; that is, that employers have to take some part of the responsibility.

I wish the member for Fremantle had been at a couple of addresses I have given to employers and other groups in recent weeks on the question of their getting back to and together with their workers on the workshop floor and at the mine face, because the unions are not the only ones who have the right to talk to the work force and their families. I said it would not be a bad idea to do that.

The true story and full import as well as the proper interpretation of what industry was all about could be told by employers to employees and their families in a straightforward way. If they understood the true position we would have less industrial trouble.

HOSPITAL: ROYAL PERTH (REHABILITATION)

Orthotists Industrial Dispute

811. Mr HODGE, to the Minister for Health:

I refer the Minister to the question I asked him last Wednesday concerning the industrial dispute between orthotists and Royal Perth (Rehabilitation) Hospital.

The Minister told me in answer that the matter had been referred to the Industrial Commission and was before it at that time. I ask the Minister: Does he still stand by that answer, because my advice is not only that the hospital had not referred that dispute to the Industrial Commission at the time I asked the question, it still has not referred it to the Industrial Commission?

Mr YOUNG replied:

My understanding of the situation at that time was that the matter was before the Industrial Commission. It may not have been a request for intervention or a compulsory conference, but there was a matter before the Industrial Commission at that time.

Mr Hodge: I asked about that particular dispute.

Mr Brian Burke: Wrong again!

Mr YOUNG: I understood quite clearly what the member for Melville asked me at the time, and my understanding of it was whether I had any intention of

taking the matter to the Industrial Commission.

Mr Hodge: I said if it had not already been referred to the commission.

Mr YOUNG: My understanding was, and still is, that there was a matter brought by the orthotists before the Industrial Commission at that time; and that is still my understanding.

ABORIGINAL: KALGOORLIE

Federal Members of Parliament: Assistance

812. Mr COYNE, to the Minister for Health:

(1) Did the Minister see an article in *The West Australian* dated 18 November 1981 with regard to assistance rendered by members of Parliament to an Aboriginal found speared near Kalgoorlie?

(2) Is there any truth in the claims of the Federal member for Kalgoorlie (Mr Graeme Campbell) that the Community Health Service is inefficient or has failed in any way to provide assistance for a speared Aboriginal in Kalgoorlie on 4 November 1981?

Mr YOUNG replied:

(1) and (2) The point I wish to make is that the health workers of the Community Health Service in Kalgoorlie do their rounds every day, and there was a clear suggestion in the article in the newspaper which made an attempt to indicate that no-one was on duty at that time and for that reason the Aboriginal referred to may not have received proper attention.

As best I understand them, the facts of the matter are that the speared man was from Cundeelee, and his condition was not reported to the health workers during their rounds. He was found by parliamentarians and taken to Kalgoorlie Regional Hospital where he was seen by Dr McKenna, in casualty, on 4 November. Dr McKenna's case notes state that the wound was not serious and was only mildly infected. The patient did not need admission, the wound was dressed, and the patient discharged.

The next day Sister Knowles sent two sisters to find the person when she heard about him from the parliamentarians. The two sisters found the fringe dwellers who were very reluctant to disclose the whereabouts of the speared man, presumably because the spear wound was a tribal matter. That was probably the reason the health workers were not involved at the time. On 5 November he was found and admitted to hospital because his wound was not being cared for.

The health workers were having a seminar over this period as part of the Aboriginal health worker training programme. In spite of the seminar, the health workers were doing their daily rounds per schedule. The vehicles used were—

vehicles used by the health workers who were at the seminar;
two vehicles in for repairs;
a doctor's vehicle—the position is currently vacant, but about to be filled;
vehicles awaiting appointments to nurse vacancies.

The Community Health Service is not inefficient, as repeatedly released documentation has proved.

The version of the affair given in the Press gives the impression of neglect by the CHS staff. This is mischievous denegration of a wonderful service just for political gain.

The patient discharged himself from Kalgoorlie Regional Hospital on 9 November following a visit from his wife, and has not been seen since.

STATE FINANCE: COMMITTEE OF REVIEW

Inquiry: Completion

813. Mr DAVIES, to the Premier:

I refer the Premier to the question I asked him a fortnight ago today, regarding the likelihood of making public the findings of the expenditure review committee. I ask—

(1) Has he been able to check the position with the Deputy Premier?

(2) When is it likely that the House will know what cuts are proposed?

Sir CHARLES COURT replied:

(1) and (2) I have checked with the Deputy Premier as recently as an hour ago and he hopes to have the documentation finished this week and the latest it will be presented to the Parliament will be early next week.

TRAFFIC: ALBANY HIGHWAY

Congestion

814. Mr PEARCE, to the Minister for Transport:

(1) Is the Minister aware of the chaotic traffic situation which prevails in Albany Highway, around the Carousel area, which is delaying by up to 20 to 25 minutes during peak hours voyages from the southern suburbs to the city?

(2) Since the failure of the bridge concept offered by the Government a year or two ago, what action does the Government intend to take to amend the situation?

Mr RUSHTON replied:

(1) and (2) Firstly, I say to the member for Gosnells that I do not think he gained anything by using somewhat extreme comments relating to the position. There is some relief to the area as a result of the construction of the foothills route. Some comment has been made by the Town of Canning relating to Sevenoaks Road, and it does not want to see the development of that road. I believe further comments are being made by the City of Gosnells.

The member's remarks are understood, and relief will be meaningful if the two municipalities already mentioned take positive relief action. The Government has made the point in earlier releases that if those two local authorities were of the opinion that relief should be made, they should recommend the building of the bridge and the extension of Spencer Road to Manning Road. This is something the Government would consider when recommended by these municipalities. A request by the municipalities would certainly be acted upon.

EDUCATION: PRE-SCHOOL

Teachers: Funding

815. Mr BRYCE, to the Minister for Education:

My question concerns pre-schools, particularly the pre-schools in my constituency and those of other members where for 1982 the pre-schools have a morning group of five-year-olds and an afternoon group of four-year-olds. Can the Minister give those community pre-school groups an assurance that they will have a teacher whose salary will be paid by the Education Department as has been the case for some considerable years?

Mr GRAYDEN replied:

The position in respect of playgroups has been dealt with in detail.

Mr Bryce: No, it has not.

Mr I. F. Taylor: Give a straight answer for once.

Mr GRAYDEN: Teachers and parents have now been written to and I do not want to complicate the situation. If the member for Ascot requires any further details I ask him to put a question on notice.

WATER RESOURCES: EFFLUENT

Point Peron: Pipeline

816. Mr BARNETT, to the Minister for Water Resources:

Relative to the studies being conducted into the sewage disposal pipeline at Point Peron, is it a fact that the Metropolitan Water Board, and/or its consultants, and/or its Minister, have approached the major industries in the Kwinana industrial area and asked—

(1) Whether they are interested in disposing of effluent in the same pipeline?

(2) Whether they are interested in disposing of effluent in a similar pipeline to run beside the proposed pipeline?

(3) What was the result in both cases?

Mr MENSAROS replied:

(1) to (3) The Premier made a statement in regard to this matter and it was made clear that if industries were interested in using the same route they could do so, subject to a separate EPA inquiry; but they could not use the same line under any circumstances. The matter would be subject to an entirely separate research by the Department of Conservation and Environment and no such move has commenced to date. Industry, of course, is as much aware of what is happening as anyone else. There has been no recent approach to industry, but discussions were held prior to the seminar and prior to the public being notified that it was decided that—

Mr Barnett: Have you asked them?

Mr MENSAROS: Will the member listen to my answer?

Mr Barnett: I am trying to listen.

Mr MENSAROS: —of the many options upon scientific advice, the proposed pipeline option should be given priority for further study.

EDUCATION: HIGH SCHOOL

Manjimup

817. Mr EVANS, to the Minister for Education:

Is it intended to make available the $50 000 which the Minister promised to the Manjimup Senior High School Parents & Citizens' Association for the construction of a gymnasium in 1982?

Mr GRAYDEN replied:

I thank the member for some notice of this question. The answer is as follows—

> Detailed drawings and plans of the proposed buildings have been received only in the last week and the Public Works Department is now assessing the submission. A sum of $50 000 to subsidise this project will be available for an approved building.

LAND: FORREST PLACE

Commonwealth Government: Transfer

818. Mr DAVIES, to the Premier:

(1) Is he able to say whether the Commonwealth Government has now transferred to the State Government the land we know as Forrest Place, and if a suitable plan has been prepared for this land?

(2) If no plan has been prepared, what is likely to be the future of that area?

(3) If the land has not been transferred to the State Government, what is the cause of the delay?

Sir CHARLES COURT replied:

(1) to (3) My understanding, and I am speaking from memory, is there is no practical hold-up in the question of the transfer of the land. The terms of the transfer have been agreed between the State and the Commonwealth Governments, but there is need for a complete study of that particular area—not only Forrest Place itself, but also the buildings on either side of it including the corporation of Boans. Traffic problems, car-parking problems, and the development of Wellington Street in a more permanent form, including of course the relativity of the railway station and the area on the south side of Wellington Street right through to the north of the railway, will have to be taken into consideration.

To the best of my knowledge the manner of planning is continuing smoothly—although it is not as quick as some people would like—between the Minister for Local Government, and Urban Development and Town Planning, the Perth City Council and property owners who are involved. If the Government makes any decisions in regard to Forrest Place and its immediate environs, naturally properties are affected and it may be necessary for them to be redeveloped in a major way. The last information I have received is that the matter is proceeding smoothly and the Government, the Perth City Council, and the property owners are working together to achieve the best result.