can be taken to protect that child's welfare without the benefit of court action being invoked.

In subclause 3 reference is made to two instances; firstly where a parent has abandoned or deserted his child and, secondly, where he has allowed his child or children to be brought up by another person at the expense of that person, thus making it obvious he is unmindful of his parental duties. There could arise a situation where the family caring for the children is not in the financial situation or otherwise capable of adequately looking after the child, and it might be difficult for that family in this voluntary capacity to continue to care for the child or children. Even though this might be the case it would be undesirable for the children to be returned to the parents when they were unmindful of their children's welfare and of their own responsibility.

The party who had borne the cost of caring for the child would have to take court action to get the problem resolved. This is the only weakness I find in the legislation.

If that party went to the Child Welfare Department, the department could do nothing for those children. It could itself possibly be forced, because of a threat that the children would be put out into the street, to take the matter to court. Under this provision the matter must be taken to court, but I believe provision should exist so that arrangements can be made legally without the necessity for court action.

The Hon. W. R. WITHERS: I was absent for part of the debate on this Bill, and possibly the error I have in mind has already been discussed. Clause 24 (3) refers to the masculine gender when, in fact, it should refer to the masculine and feminine.

The Hon. J. Dolan: That is provided for in the Constitution.

The Hon. W. F. WILLESEE: I have here some notes on clause 24 as follows:

> Sub-clause (2) of this clause restates the present law which requires the parent on having the child given up to him by a person who has been rearing the child to pay to such person the whole of the costs properly incurred in bringing up the child—See Section 11 of the 1926 Act.
>
> The remainder of the Clause restates Section 12 of the 1926 Act in giving the Court explicit powers of ensuring that where a parent has previously abandoned or neglected the child or left another person to bring it up—to the extent of the parent appearing unmindful of his parental duties—the parent must now establish to the satisfaction of the Court that he is a fit and proper person to have the custody of the child. In any event, Sub-clause (1) restating Section 10 of the 1926 Act, gives the Court complete discretion in the matter of returning the child to the offending parent. Person includes any school or institution.

The Hon. F. R. WHITE: The clause is quite self-explanatory in that regard, particularly when read in conjunction with clause 6. I was merely trying to point out that a weakness does exist because in the circumstances referred to it is necessary for action to be taken by someone in court. Therefore I believe it would be desirable in the future for the Child Welfare Department, the Mental Health Services, and any other department involved in this overall problem to study the matter carefully in an endeavour to devise some provision under which action can be speeded up and taken without necessarily going to court.

Clause put and passed.

Clauses 25 to 27 put and passed.

Schedule put and passed.

Title put and passed.

*Report*

Bill reported, without amendment, and the report adopted.

*House adjourned at 9.05 p.m.*

# Legislative Assembly

Tuesday, the 11th April, 1972

The SPEAKER (Mr. Norton) took the Chair at 4.30 p.m., and read prayers.

## QUESTIONS

*Closing Time: Statement by Speaker*

**THE SPEAKER** (Mr. Norton): I have received a request for a review of the time to which questions may be submitted to the Table on Thursdays. I have given the matter full consideration. In accordance with the latter part of Standing Order 107, instructions were issued to the Clerks at the Table to receive questions up to 2.15 p.m. on Thursdays. I wish to announce that I am now prepared to amend the instruction to read "3.00 p.m."

If at question time on a Thursday a member asks a question without notice and the Minister directs that such question be placed on the notice paper, I am prepared to allow such question to be so placed, if handed in immediately. Members must realise this is a privilege and, if abused, it may be withdrawn. This will occur, for instance, if a member deliberately asks a question in such a way as to leave the Minister no alternative but to direct that it be placed on the notice paper.

## NAVAL BASE AT COCKBURN SOUND

*Tabling of Information*

**MR. GRAHAM** (Balcatta—Minister for Development and Decentralisation): Members may recall I was asked whether I could obtain papers from the Commonwealth relating to the proposed establishment of a naval facility at Cockburn Sound. I wrote to the Prime Minister who has since replied pointing out that certain publications were available at the time in Western Australia, but at the request of the Commonwealth were not to be made public until the Joint Standing Committee on Public Works on behalf of the Commonwealth Parliament had commenced its investigations here. The information consisted of particulars supplied to interested parties as a background to assist them in the preparation of their cases.

Additional copies have been made available and I now have pleasure in submitting them to be laid upon the Table of the House.

*The papers were tabled.*

## QUESTIONS (44): ON NOTICE

1. TAXATION BOARD OF REVIEW

*Establishment*

Mr. R. L. YOUNG, to the Treasurer:

Further to comments made by me in debate on the Payroll Tax Bill in September 1971 and his undertaking to look into the matter, can he say whether he has taken any steps to set up a State taxation board of review?

Mr. GRAHAM (for Mr. J. T. Tonkin) replied:

Inquiries I have made indicate that the number of disputes and unresolved objections is insufficient to warrant the establishment of a board of review at this point in time.

2. BERNARD KENNETH GOULDHAM

*Compensation*

Mr. R. L. YOUNG, to the Premier:

How much compensation has the present Government paid Bernard Kenneth Gouldham?

Mr. GRAHAM (for Mr. J. T. Tonkin) replied:

Nil.

3. PUBLIC TRUST OFFICE

*Capital Investment on Building*

Mr. R. L. YOUNG, to the Attorney-General:

(1) What net percentage of income on invested capital was returned by the Public Trust Office building to the Public Trustee during the year ended 30th June, 1971?

(2) What is the estimated return in future years?

Mr. T. D. EVANS replied;

(1) 8½ per cent. per annum.

(2) 8½ per cent. per annum but subject to review from time to time to ensure maintenance of a fair return.

4. ABATTOIRS

*Trades and Labor Council and Farmers: Deputation*

Mr. JONES, to the Minister for Water Supplies:

(1) Did he meet a deputation of the Trades and Labor Council and United Farmers and Graziers Association representatives on Wednesday, 29th March, in connection with the establishment of additional abattoir facilities in this State?

(2) If so, will he advise who introduced the deputation and names of those who represented the Trades and Labor Council and the United Farmers and Graziers Association?

(3) Will he further advise the matters discussed at the meeting and any decisions reached?

Mr. T. D. EVANS (for Mr. Jamieson) replied:

(1) and (2) Yes. The deputation was introduced by Mr. D. D. Reid, M.L.A. and comprised:—

Mr. A. J. Marks, representing the Trades and Labor Council;

Mr. J. Rodgers, President, United Farmers and Graziers' Association;

Mr. A. Forbes, President, Boyup Brook Shire Council;

Mr. R. Lloyd, Deputy President, Boyup Brook Shire Council.

(3) The provision of a water supply to Boyup Brook adequate to serve a proposed abattoir. The deputation suggested that this could be achieved by tapping into the Wellington Dam pipeline at a point between the Collie booster station and Bingham service tank. This suggestion is now under consideration by departmental officers.

5. WATER SUPPLIES

*Northern Suburbs: Underground Sources*

Mr. HUTCHINSON, to the Minister for Water Supplies:

(1) Of the approximate figure of 700 million gallons of underground water supplied to Koondoola, Girrawheen, parts of Balga and Warwick, what gallonage is artesian?

(2) From how many bores or wells is the other proportion drawn?

Mr. T. D. EVANS (for Mr. Jamieson) replied:

(1) Approximately 30%.

(2) Five.

6. POLICE

*Organised Violence and Demonstrations*

Mr. COURT, to the Premier:

(1) Has he or any of his colleagues received a letter dated 16th February, 1972 (or some other date this year) from the Secretary-Treasurer of the Australian Federation of Police Associations/Unions about "Organised Violence —Demonstrations"?

(2) If so, what reply has been given?

Mr. GRAHAM (for Mr. J. T. Tonkin) replied:

(1) It is understood all members of Parliament were in receipt of a circular letter dated 16th February, 1972, from the secretary-treasurer, Australian Federation of Police Associations/Unions.

(2) The Minister for Police replied to the communication in brief general terms and a copy of the reply is tabled.

*The letter was tabled.*

7. WORKERS' COMPENSATION

*Pneumoconiosis Cases: Re-examination*

Mr. HARTREY, to the Minister for Labour:

In the respective periods:—

1st July, 1968 to 30th June, 1969;

1st July, 1969 to 30th June, 1970;

1st July, 1970 to 30th June, 1971;

1st July, 1971 to 31st December, 1971,

how many silicotic miners re-examined by the pneumoconiosis medical board were—

(a) re-assessed as having suffered an increased percentage of disability due to pneumoconiosis;

(b) assessed as not having suffered any increased percentage of disability due to pneumoconiosis,

since their last previous examination by the medical board?

Mr. TAYLOR replied:

This information is not readily available at the Workers' Compensation Board or the State Government Insurance Office, and its compilation would involve very considerable time and work.

If I may add to this reply, Mr. Speaker, the question is not unlike one asked by the member for East Melville on the 30th March. Because of their obvious interest in this matter, I would accept a request from them to make available any records they wish.

8. COURTS OF PETTY SESSIONS

*Indictable Offences: Cases*

Mr. HARTREY, to the Attorney-General:

In Western Australia, in the period 1st January to 1st December, 1971—

(1) How many charges of indictable offences were heard and determined summarily by courts of petty sessions?

(2) In how many of such cases did the court comprise—

(a) a magistrate (whether with or without justices of the peace);

(b) justices of the peace only;

(c) one justice of the peace only?

(3) In how many cases covered by 2(a) above was—

(a) the charge dismissed;

(b) the defendant convicted;

(c) the defendant sentenced to a term of imprisonment without the option?

(4) In how many cases covered by 2(b) above was—

(a) the charge dismissed;

(b) the defendant convicted;

(c) the defendant sentenced to a term of imprisonment without the option?

(5) In how many cases covered by 2(c) above was—

(a) the charge dismissed;

(b) the defendant convicted;

(c) the defendant sentenced to a term of imprisonment without the option?

Mr. T. D. EVANS replied:

The information sought is not readily available and would involve an examination of the records of all courts throughout the State.

Should the Member desire to have this information obtained, I will so direct on his written request.

9. COMPREHENSIVE WATER SCHEME

*Extensions*

Mr. BROWN, to the Minister for Water Supplies:

(1) When will the existing extensions to the comprehensive water scheme be completed?

(2) What proposals are before the Commonwealth for finance for further extensions?

(3) What areas are defined for inclusion in proposals for future extensions?

(4) What is the cause of delay in announcements of these future extensions?

Mr. T. D. EVANS (for Mr. Jamieson) replied:

(1) Anticipated completion date is December 1973.

(2) The provision of water by pipeline to York-Greenhills and Corrigin-Bullaring areas.

(3) and (4) A number of other requests are under consideration but no firm proposal has yet been defined.

10. ENVIRONMENTAL PROTECTION

*Kaolin Mining: Greenbushes District*

Mr. REID, to the Minister for Environmental Protection:

In light of the current problems experienced in protecting the environment within the Greenbushes mining field and with the possibility of a kaolin mining venture commencing in the same area, would he recommend that the Environmental Protection Authority visit the area to draw up guidelines to prevent further desecration of the landscape?

Mr. DAVIES replied:

In April, 1971, the Premier established an interdepartmental committee chaired by the Director of Environmental Protection and including the Under Secretary for Mines and the Director of Industrial Development, to review the situation in the Greenbushes area. Subsequently, at my invitation, the Minister for Forests nominated the Deputy Conservator to be an additional member of this committee. Inspections of the area have been made and will continue. Action as suggested by the Member is being taken and the matter will be closely watched pending future developments in the area.

11. THORNLIE HIGH SCHOOL

*Extensions*

Mr. BATEMAN, to the Minister for Education:

In view of the rapid increase in students at the Thornlie High School, are arrangements in hand to upgrade and build extensions to bring it up to third year status for the 1973 school year?

Mr. T. D. EVANS replied:

Building extensions to accommodate third year students at Thornlie High School are listed in the 1972-73 school building programme.

12. STATE GOVERNMENT INSURANCE OFFICE

*Full Franchise Bill*

Mr. O'NEIL, to the Minister for Labour:

(1) Is he correctly reported (*Daily News* Wednesday, 29th March) as having said: "We will get the S.G.I.O.'s full franchise Bill through Parliament this time with or without Liberal Party support"?

(2) If so, upon what facts has he so unequivocally anticipated the decision of the Parliament of Western Australia?

(3) If not, what did he say?

Mr. TAYLOR replied:

(1) Although there is no record of what was a verbal comment, the statement appears to be reasonably correct.

(2) The excellence of the case in support of the legislation, its undoubted value to the people of this State, and the example of at least twenty-five years of successful growth and experience of Government insurance offices in the non-Labor States of New South Wales and Queensland which have almost identical legislation.

I am further greatly encouraged by the recent comments and speeches of Members in Opposition, both in this House and in another place, in which great emphasis has been laid on the fact that the Legislative Council is a "House of Review" and not a party's House.

As the Bill will now be debated there and voted upon completely on its merits and not from a point of view of party ideology, I am most confident of its passage.

(3) Not applicable.

13. STATE GOVERNMENT INSURANCE OFFICE

*Loans to Country Authorities*

Mr. O'NEIL, to the Minister for Labour:

What is meant by the statement appearing in the *Daily News* of Wednesday, 29th March, that "Sixty to seventy percent of S.G.I.O.'s loans to country authorities go to country areas"?

Mr. TAYLOR replied:

It is presumed that the statement should have ready "sixty to seventy per cent. of S.G.I.O.'s loans to local authorities go to country areas".

14. STATE GOVERNMENT INSURANCE OFFICE

*Premium Income and Taxes*

Mr. O'NEIL, to the Minister for Labour:

(1) What was the total premium income of the S.G.I.O. for each of the last five years?

(2) What amount of money was paid to the State Treasury by the S.G.I.O. in lieu of normal State taxes, etc., in each of the last five years?

(3) What amount would have had to be paid in each of the last five years had the provisions proposed in the State Government Insurance Office Act Amendment Bill been in force?

Mr. TAYLOR replied:

| | | $ |
|---|---|---|
| (1) | 1966-1967 | 7,970,235 |
| | 1967-1968 | 8,788,983 |
| | 1968-1969 | 10,296,847 |
| | 1969-1970 | 11,203,399 |
| | 1970-1971 | 12,745,154 |
| (2) | 1966-1967 | 115,639 |
| | 1967-1968 | — |
| | 1968-1969 | 149,832 |
| | 1969-1970 | 203,181 |
| | 1970-1971 | 539,467 |

(3) As in (2) above, plus the tax on any additional business that was written as a result of the wider franchise.

15. STATE GOVERNMENT INSURANCE OFFICE

*Housing Loans*

Mr. O'NEIL, to the Minister for Labour:

(1) How many housing loans have been made by the S.G.I.O. in each of the last five years?

(2) What is the total value of those loans?

(3) Has the S.G.I.O. advanced loans to building societies for housing purposes?

(4) If so, to which societies and what is the total of such loans?

(5) Would he be aware of the total sum of money advanced to building societies in this State by private insurance or assurance companies?

(6) If so, what amount has been advanced over the last five years?

Mr. TAYLOR replied:

(1) 1966-1967—38
1967-1968—50
1968-1969—41
1969-1970—24
1970-1971—31

(2) $1,974,601.

(3) Yes, one.

(4) Permanent Investment Building Society—$100,000.

(5) No. As far as I am aware the areas to which advances and/or loans are made by private insurance or assurance companies in Western Australia are not recorded in annual reports and are, therefore, unknown.

(6) See (5) above.

16. STATE GOVERNMENT INSURANCE OFFICE

*Advances to Government and Industry*

Mr. O'NEIL, to the Minister for Labour:

(1) Is the statement which appears in the *Daily News* of Wednesday, 29th March, that since its inception the S.G.I.O. has advanced loans totalling $28.5 million correct?

(2) Would he supply a break up of those advances in the following categories—

(a) State Government;

(b) Commonwealth Government;

(c) local government;

(d) semi-Government;

(e) private industry;

(f) housing?

(3) What would be the average annual advance (in total) over the whole period of operation of the S.G.I.O.?

Mr. TAYLOR replied:

(1) Yes.

(2)

| | | $ |
|---|---|---|
| (a) | State Government and semi-Government | 8,874,244 |
| (b) | Commonwealth Government | 4,298,614 |
| (c) | local government | 6,432,382 |
| (d) | semi-Government (inc. in (a)) | — |
| (e) | private industry | 4,191,529 |
| (f) | housing | 3,071,380 |

These total $26,868,149 and in addition, $1,695,626 is invested in land and buildings.

(3) The average annual advance since inception is approximately $650,000, but this figure is increasing each year, and during 1970-1971 $3,047,002 was invested, excluding short term loans.

17. INSURANCE COMPANIES

*Life and General: Number*

Mr. O'NEIL, to the Minister for Labour:

(1) Is the statement which appeared in the *Daily News* of Wednesday, 29th March, that "in W.A. 17 companies sell life assurance and a few general companies sell some life" correct?

(2) If not—

(a) how many companies in Western Australia deal only with life assurance;

(b) how many deal in general insurance business including life; and

(c) how many deal in both?

Mr. TAYLOR replied:

(1) There is no known local record of the number of companies which sell solely life assurance in this State, but the State Government Insurance Office has advised me of some nineteen such companies.

(2) (a) As far as I am now aware there are at least nineteen.

(b) The exact number is not known.

(c) The exact number is not known.

18. STATE GOVERNMENT INSURANCE OFFICE

*Premiums: Life and Home Policies*

Mr. O'NEIL, to the Minister for Labour:

(1) In his research prior to the introduction of the State Government Insurance Office Bill did he ascertain—

(a) that Commonwealth legislation relating to life assurance controls reasonably strictly the disbursement of premium income;

(b) that surpluses of life policy premiums beyond those directed to be distributed in the form of bonuses to policy holders may not be used to supplement income from other insurance business where companies are involved in more than one class of insurance?

(2) In view of this information, how does he account for his alleged statement (*Daily News*, Wednesday, 29th March) that if the S.G.I.O. were given an extended franchise premiums on such things as home insurance could be reduced by as much as 30%?

(3) If my assumptions in (1) (a) and (1) (b) are incorrect or inaccurate, would he please detail the position in respect of these matters?

Mr. TAYLOR replied:

(1) (a) Yes.

(b) Yes.

(2) There is no connection whatsoever between life assurance and the reduction of premiums in the non-life accounts.

The next part is very important: S.G.I.O.'s rates on house-owners' policies are, in the main, already up to 30% below the majority of Companies.

(3) The Member's assumptions in 1 (a) and 1 (b) are in general, correct.

Mr. O'Neil: There is a further reduction of 30 per cent.

19. WORKERS' COMPENSATION BOARD

*Cases Heard*

Mr. O'NEIL, to the Minister for Labour:

How many cases involving disputations have been heard by the Workers' Compensation Board in the most recent statistical period for which figures are available?

Mr. TAYLOR replied:

From 1st July, 1970 to 30th June, 1971: 215 cases.

20. HOUSING

*Insurance Companies: Advances to Building Societies*

Mr. O'NEIL, to the Minister for Housing:

What amount of money has been advanced by private insurance companies to building societies in Western Australia for housing purposes over the last five years?

Mr. BICKERTON replied:

Private insurance companies have advanced $2,850,000 to terminating building societies in Western Australia over the last five years.

1966-67—$950,000.

1967-68—$350,000.

1968-69—$700,000.

1969-70—$300,000.

1970-71—$550,000.

Normal borrowings by permanent societies do not involve either the issue of guarantees under the Housing Loan Guarantee Act or registration of new societies for each new loan, and hence the

amount of borrowings from private insurance companies to permanent building societies is not known to the registry.

Mr. O'Neil: You should tell the Minister for Labour, because he said the information was not available.

21. ALUMINA REFINERY AT UPPER SWAN

*Environmental Protection Report*

Mr. COURT, to the Premier:

(1) When is finality expected in studies by Government officers of the Environmental Protection Authority Pacminex project report and their discussions with the Environmental Protection Authority about the findings in the report?

(2) Will he reconsider—in the light of my comments on the Address-in-Reply—his previous answer to my request and make available to Parliament a detailed Government commentary on the Environmental Protection Authority report and will he arrange to include details of the criteria used by the Environmental Protection Authority in reaching its decisions as well as details of those who advised the Environmental Protection Authority in respect of each of the many technical and other studies?

Mr. GRAHAM (for Mr. J. T. Tonkin) replied:

(1) Continuing discussions are taking place with Government officers and industry representatives to investigate a mutually acceptable refinery site.

(2) In view of the above and in the light of the statement by the Minister for Environmental Protection, it is not considered in the best interests of current discussions to add anything further.

22. PENSIONERS

*Government Concessions*

Mr. W. A. MANNING, to the Minister representing the Minister for Community Welfare:

(1) What concessions are at present allowed to pensioners by State departments or authorities?

(2) What is the weekly estimated value of these to a pensioner?

(3) Has any calculation been made of the total weekly value of concessions, Federal and State, allowed to pensioners?

Mr. T. D. EVANS replied:

(1) Concessions at present allowed to pensioners by State departments or authorities—

(a) Transport—free train and bus travel in the metropolitan area and free travel on ferries; train journeys in country areas at half fare. Travel on private buses in Albany, Kalgoorlie and Northam is free to eligible pensioners. There is also free return travel on State ships once in every two years (restricted to pensioners who are permanent residents in the north-west).

(b) Housing—rebate of S.H.C. rents subject to means.

(c) Rates—deferment of metropolitan water, sewerage and drainage, country water supplies, country towns sewerage, water boards, land drainage, rights in water and irrigation.

(d) Exemption from land tax and metropolitan region improvement tax.

(e) Motor Vehicle Licenses—

(i) Licenses to civilian invalid pensioners and service pensioners are granted free or with a 50% concession subject to means test.

(ii) Licenses to totally and permanently incapacitated ex-servicemen are free.

(2) Because of the nature of the concessions given it is not possible to give an estimated weekly value of these to a pensioner. The value would vary considerably from person to person.

(3) No.

23. METROPOLITAN PASSENGER TRAIN SERVICES

*Losses*

Mr. W. A. MANNING, to the Minister representing the Minister for Railways:

(1) How many metropolitan passenger train services are operating at a loss?

(2) Is there any major reason (such as, area served, day of the week, or time of day) for such losses?

(3) Why are such services continued?

Mr. MAY replied:

(1) and (2) Metropolitan passenger rail services are not costed separately, but overall, operate at a loss.

(3) These services have operated at a loss over a number of years but have been continued as a Government policy.

24. METROPOLITAN TRANSPORT TRUST BUS SERVICES

*Losses*

Mr. W. A. MANNING, to the Minister representing the Minister for Transport:

(1) How many Metropolitan Transport Trust bus services are operating at a loss?

(2) Is there any major reason (such as, area served, day of the week, or time of day) for such losses?

(3) Why are services, which continue at a loss, continued?

Mr. BICKERTON replied:

(1) All.

(2) After 6.30 p.m. on weekdays, after 1.00 p.m. Saturdays and all day Sundays and public holidays, services are operated at a severe loss. The development of Perth on such a spread out basis contributes largely to the severity of the loss.

(3) It has been the policy of successive Governments to provide services for people who are unable or do not wish to have their own transport. Among these are 64,000 school children carried each school day for which the trust receives half fare whilst paying full costs for operation.

25. LIGHT DRUGS

*Possession and Use: Penalties*

Mr. MENSAROS, to the Premier:

Considering certain publicity on television advocating the abolishing of penalties against possession or use of marihuana, cannabis and other prohibited "light drugs" would he state whether his Government will uphold the present policy in the interest of the people of Western Australia, or will it ease or abolish penalties in this respect?

Mr. GRAHAM (for Mr. J. T. Tonkin) replied:

The current law provides for certain penalties for possession or use of prohibited drugs and it is considered that magistrates treat each case on its merits when administering appropriate penalties. At present it is not the intention of this Government to alter penalties or change this system.

26. TEACHERS

*Promotions: Preference*

Mr. MENSAROS, to the Minister for Education:

As the Government usually ascertains the comparative Statutes in each State before drafting legislation, would he be able to say in which States teachers who are union members receive preference at appointment and/or promotions based on Statute and/or regulation?

Mr. T. D. EVANS replied:

The Education Department does not have this information.

27. CHILD WELFARE

*Juvenile Offenders: Convictions*

Mr. HUTCHINSON, to the Minister representing the Minister for Community Welfare:

(1) Is it a fact all juvenile offenders who are convicted in the Children's Court suffer the penalty throughout adulthood of having their offences permanently recorded for possible subsequent use?

(2) Will he have this matter investigated to see whether such records can be expunged where offences involved are not of a serious nature or where there are mitigating circumstances which could warrant such action?

Mr. T. D. EVANS replied:

(1) Yes.

(2) The possibility of having this investigated will be looked into. It should be pointed out here that "The Juvenile Suspended Court Action Panel" has been in operation since the 1st August, 1964. The "Panel" consists of an appointed Police Inspector and a Panel Chairman from the Child Welfare Department. The "Panel" deals with children who have not attained 16 years of age. The child must be a first offender and the panel's jurisdiction is limited to offences considered "not serious". The Panel does not decide on guilt. The operation of the Panel enables an increasing number of young persons to be dealt with in the way sought by the Member.

28. TOWN PLANNING

*Housing Project: Kwinana Industrial Complex*

Mr. COURT, to the Minister for Town Planning:

(1) With reference to the answers given to question 1, 21st March, 1972 asked by the Member for Dale, is the possible use of 1,500 acres of industrial land for residential purposes still under consideration with Rural and Industries Bank?

(2) If so, when is finality expected?

(3) Also, if the land is used for residential purposes will an equivalent amount of land be made available for industrial purposes in another location?

(4) (a) Is this exchange of land part of or the same scheme as was suggested by the Metropolitan Region Planning Authority to the previous Government or is it a different concept;

(b) if a different concept, where does it vary?

(5) Is he satisfied sufficient land is currently zoned industrial and in appropriate places in relation to current metropolitan region residential area plans?

(6) If not, what deficiencies in area and location does he consider exist?

(7) Am I to assume from his answer to part (7) of that question that major subdivisions and developments of land such as 1,500 acres for residential use, do not have to be submitted to the Environmental Protection Authority under the provisions of their Statute?

Mr. GRAHAM replied:

(1) Yes.

(2) Within the next few months.

(3) Yes.

(4) (a) Yes, it is the same scheme.

(b) Answered by (4) (a).

(5) Yes.

(6) Answered by (5).

(7) It is presumed that this question refers to part (1) and not to part (7) as given and if so the answer is yes.

29. BUNGAREE SCHOOL

*Canteen*

Mr. RUSHTON, to the Minister for Education:

(1) Have approvals been given to Bungaree primary school parents and citizens' association for—

(a) siting of canteen;

(b) plans;

(c) construction of building?

(2) If "No" to (1) will—

(a) the site now be selected; and

(b) plans and specifications be provided to the association to enable estimates to be obtained?

(3) Are detailed plans and specifications for primary school canteens now available to parents and citizens' associations of primary schools, both—

(a) cluster type; and

(b) other types?

Mr. T. D. EVANS replied:

(1) (a) to (c) No.

(2) (a) The Bungaree parents and citizens' association has been requested to arrange a meeting on the school site with a Public Works Department representative.

(b) Plans and specifications for canteens in primary schools are 75% complete. These will be made available to the Bungaree parents and citizens' association as soon as they are finished.

(3) (a) and (b) Detailed plans and specifications will be made available to all primary school parents and citizens' associations when they are completed.

30. GRAIN ALCOHOL

*C.S.I.R.O. Report*

Mr. COURT, to the Minister for Development and Decentralisation:

(1) Has he or his department sought a copy of the C.S.I.R.O. scientist's (S. Y. Ip) report on grain alcohol?

(2) If not, does he propose to do so?

(3) If he has a copy, is he prepared to table it or table a reasonably comprehensive summary of its contents and findings?

(4) Does he and his department agree with Mr. Ip's findings?

(5) (a) Is the report based entirely on wheat or are the results also based on other grains and reported upon;

(b) if only wheat will he ascertain if studies are proceeding on other grains?

Mr. GRAHAM replied:

(1) Yes, a copy dated September, 1971, entitled "Grain Alcohol and the Australian Wheat Surplus" by S. Y. Ip, has been obtained. It is understood that a supplemental report has been prepared and the department has requested a copy.

(2) Answered by (1) above.

(3) Yes, a copy of report dated September 1971, is hereby tabled.

(4) The report was only received on 7th April, and has not been examined in detail.

(5) (a) Entirely on wheat.

(b) What action will be taken will depend on conclusions reached after detailed study and evaluation of the tabled re-report, and the supplemental report.

*The report was tabled.*

31. CONNELL AVENUE SCHOOL

*Cost of Building*

Mr. RUSHTON, to the Minister for Education:

(1) Will he advise me the cost of the portion of the new Connell Avenue primary school which was built for the opening of the 1972 school year?

(2) Will he let me know the cost and details of the extensions now commenced?

(3) What is the extra cost due to the first cluster and administration block being built in two contracts?

Mr. T. D. EVANS replied:

(1) $123,875.

(2) $50,837.

Details of extensions are—

(a) Two teaching areas.

(b) One practical area.

(c) Increase of approximately 50% in administration area.

(3) Approximately $12,000.

32. DEMOUNTABLE CLASSROOMS

*Cost*

Mr. RUSHTON, to the Minister for Education:

How much does it cost on an average building site on, say, a 15 mile transportation within the metropolitan area—

(a) to install a demountable classroom; and

(b) to remove a demountable classroom?

Mr. T. D. EVANS replied:

(a) $6,830.

(b) The cost to remove a demountable classroom and its placement in store is $400.

33. ABATTOIRS

*Output and Capacity*

Mr. WILLIAMS, to the Minister for Agriculture:

(1) What were the numbers of—

(a) cattle;

(b) sheep;

(c) lambs,

slaughtered at all—

(i) export works;

(ii) non-export works,

in Western Australia for the years 1968-69, 1969-70, 1970-71?

(2) What is the estimated annual killing capacity of all—

(i) export works;

(ii) non-export works,

in Western Australia for—

(a) beef;

(b) sheep;

(c) lambs?

(3) What additional killing capacity will be provided by the Southern Meat Packers works, Katanning, and the Tip Top Wooroloo abattoirs?

(4) What numbers of live sheep have been exported from Western Australia since 1st July, 1971 and the estimated number likely to be exported to June 1972?

(5) Has consideration been given by the Government to determine the maximum numbers of—

(a) cattle;

(b) sheep;

(c) lambs,

that can be slaughtered and exported without endangering the stock population in Western Australia; if so, what are the numbers in each case?

Mr. H. D. EVANS replied:

(1) Numbers of animals slaughtered at export works—

| | 1968-69 | 1969-70 | 1970-71 |
|---|---|---|---|
| Cattle and calves .... | 259,203 | 277,154 | 272,788 |
| Sheep .... | 1,902,518 | 2,584,544 | 2,247,977 |
| Lambs .... | 1,088,220 | 662,634 | 974,049 |

Numbers of animals slaughtered at non-export works calculated on the basis of the difference between slaughterings at export works and total State slaughterings from statistical sources—

| | 1968-69 | 1969-70 | 1970-71 |
|---|---|---|---|
| Cattle and calves .... | 70,863 | 125,129 | 75,179 |
| Sheep .... | 476,467 | 579,491 | 683,503 |
| Lambs .... | 341,238 | 707,768 | 510,791 |

(2) The installed capacity of export works and non-export works is not known with certainty except in the case of Government abattoirs. The daily capacity of these are:

| | Cattle/ Calves | Sheep/ Lambs | Pigs |
|---|---|---|---|
| Midland .... | 950 | 12,000 | 900 |
| Robb Jetty .... | 350 | 6,000 | 500 |

The current rate of usage at other export abattoirs is believed to be close to actual capacity as far as sheep and lambs are concerned.

The current rate of usage at non-export works in country districts is generally thought to be close to actual capacity.

(3) Katanning—initial capacity 2,500 sheep/lambs per day increasing subsequently to 5,000 per day; also 100 cattle and 100 pigs per day.

Wooroloo—daily capacity of 2,500 sheep/lambs per day.

(4) 475,000 sheep from 1st July, 1971 to date.

580,000 sheep for the 12 months period ending June, 1972.

(5) The Meat Industry Advisory Committee is examining this matter.

34. ABATTOIR AT WANNEROO

*Establishment*

Mr. WILLIAMS, to the Minister for Agriculture:

With reference to statements made by the Minister for Development and Decentralisation in December 1971 and March of this year regarding abattoir facilities

at Wanneroo, has this or these firms applied for a license; if so, with what result?

Mr. H. D. EVANS replied:

No application for a license under the Abattoirs Act has yet been received.

35. ARMADALE-KELMSCOTT DISTRICT MEMORIAL HOSPITAL

*Swimming Pool*

Mr. RUSHTON, to the Minister for Health:

(1) Adverting to my question 20 on 30th March regarding the building of a swimming pool for staff use at the Armadale-Kelmscott District Hospital, does his answer imply the auxiliary's letter following his letter to Dr. Wearing-Smith was not received?

(2) If it was received, will he let me have a copy of his reply?

(3) As I understand the auxiliary consider they have submitted the additional evidence required and are confident of satisfying the one or two items in doubt, will he and the director of medical services pay the ladies auxiliary the courtesy of visiting it on site and discussing any differences?

Mr. DAVIES replied:

(1) No.

(2) Yes and I will send that to him under separate cover.

(3) The letter from the auxiliary did not answer most of the department's objections. The question of visiting the site will be considered when further evidence is submitted.

36. STATE SHIPPING SERVICE

*Darwin Service*

Mr. COURT, to the Minister representing the Minister for Transport:

(1) In view of the $2.5 million grant from the Commonwealth to purchase an additional ship for the Darwin trade, is it now certain the service will continue?

(2) What frequency of service is proposed?

(3) What special or revised arrangements have been made to ensure quick turn-round in Darwin?

Mr. JAMIESON replied:

(1) Yes.

(2) Weekly.

(3) The modern handling gear on the unit load ships, in conjunction with containerised, palletised and pre-slung cargo, will ensure quick turn-round. Additionally, in recent talks with the Darwin Port Authority, it was ascertained that work is in hand to extend the general cargo berth at Stokes Hill jetty and improve the stacking area. It was also agreed to implement as early as possible, a scheme of permanency for the waterside labour, which had been shelved towards the end of 1970, when the then Government announced the possibility of the withdrawal of State ships run to Darwin.

37. ABATTOIR AT WANNEROO

*Government Guarantee*

Mr. WILLIAMS, to the Minister for Development and Decentralisation:

(1) Having stated in December last that a group he would not identify planned a $3.5 million abattoir in the Wanneroo area, requiring a $2 million guarantee from the Government, can he now advise as to whether the Government has agreed to provide the guarantee required and will he name the company concerned?

(2) In his statement which appeared in page 5 of *The West Australian* Saturday, 25th March, 1972 regarding a proposed abattoir in the Wanneroo area, is this the same company referred to in (1); if not, what is the name of this company?

(3) In each case, what is the financial position of this or these firms?

Mr. GRAHAM replied:

(1) A guarantee has not been approved. The company is Wanneroo Meat Packers Ltd.

(2) Yes.

(3) The company is in the process of being formed. It will have an authorised capital of $2 million.

38. ABATTOIRS

*New Establishments and Extensions*

Mr. WILLIAMS, to the Minister for Development and Decentralisation:

(1) How many proposals for—

(a) new abattoirs;

(b) extensions to existing abattoirs,

has the Government before it for consideration at the present time?

(2) What is the locality of each?

(3) What amount of finance is the Government being asked to guarantee in each case?

(4) What is the equity or finance being provided by the proposer in each case?

Mr. GRAHAM replied:

(1) (a) 6.

(b) 2.

(2) Boyup Brook.
Geraldton.
Northam.
Baldivis.
Wanneroo.
Esperance.
Derby.
Carnarvon.

(3) Boyup Brook, Geraldton, Northam—joint proposal—$23,000,000.

| | | $ |
|---|---|---|
| Baldivis | .... | 3,000,000. |
| Wanneroo | .... | 1,500,000. |
| Esperance | .... | 1,300,000. |
| Derby | .... | 240,000. |
| Carnarvon | .... | 1,000,000. |

(4) Respectively—Nil.
$2,000,000.
$2,000,000.
$2,100,000.
Nil.
Nil.

39. ABATTOIRS

*Trades and Labor Council and Farmers: Feasibility Study*

Mr. WILLIAMS, to the Premier:

(1) Who paid for the feasibility study for the U.F.G.A/T.L.C. abattoir proposal?

(2) Has the Government—
(a) made any contribution towards this; if so, in what way —cash and/or services;
(b) been requested to assist; if so, in what way—cash and/or services, and what was the decision?

Mr. GRAHAM (for Mr. J. T. Tonkin) replied:

(1) The payment of the fee for the feasibility study for the U.F.G.A.-T.L.C. abattoir proposal is a matter between that partnership and the engineering firm concerned.

(2) (a) No.
(b) The partnership of U.F.G.A.-T.L.C. has approached the Government for a guarantee to construct abattoirs with ancillary services. A decision has not yet been made.

40. POWER STATIONS

*Siting and Fuel*

Mr. WILLIAMS, to the Minister for Electricity:

(1) With reference to his 10th January, 1972 letter to south west regional council, is it correct that—
(a) the Government regards the State Electricity Commission as the appropriate authority for determining where best to locate power stations and determine the fuel to be used; and
(b) the Government has endorsed decisions of the previous Government and State Electricity Commission in respect of these matters?

(2) If not, what are the variations?

Mr. MAY replied:

(1) (a) The Government regards the State Electricity Commission as being responsible under the terms of its Act for carrying out investigations as to the safest, most economical and effective means for establishing, extending and improving works for the generation, supply and use of electricity throughout the State, and for constructing the necessary undertakings.
(b) The present Government has not been required to endorse or otherwise the locations of power stations or the fuel to be used as no new such works have been commenced during its term of office.

(2) See (1).

41. STATE GOVERNMENT INSURANCE OFFICE

*Agents: Government Officers*

Mr. O'NEIL, to the Minister for Labour:

(1) How many Government officers, e.g., police constables, clerks of court, mining registrars, etc., act as agents for the S.G.I.O.?

(2) In how many localities do these agents so act?

(3) What amount of commission was paid to individual agents and/or their departments during the last financial or statistical year for which such are recorded?

(4) Is it proposed to continue employing these agents if the Bill to widen the franchise of the S.G.I.O. is passed by Parliament?

Mr. TAYLOR replied:

(1) 62.

(2) 62.

(3) In total $11,748. It is considered a breach of privacy to publish the individual amounts.

(4) Yes. However, if some members, during the course of the debate, draw my attention to reasons why this agency system should not continue, I will be glad to reconsider the situation.

42. STATE GOVERNMENT INSURANCE OFFICE

*Life Assurance Section*

Mr. O'NEIL, to the Minister for Labour:

(1) Has any estimate been made of the cost of setting up a section within the S.G.I.O. to deal with life assurance?

(2) If so, what is the cost?

(3) Has any assessment been made of—

(a) premium income from; and

(b) likely pay out,

in the first five years of operation of the proposed S.G.I.O. life assurance business?

(4) Where would the money come from to pay both bonuses and claims during the period prior to the time when premium income and returns from investments would be sufficient to meet these liabilities?

Mr. TAYLOR replied:

(1) No—only a general consideration of costs was made.

(2) Answered by (1) above.

(3) No, but it is anticipated that business written and claims paid would follow the pattern of the State Government Insurance Office, Queensland and Government Insurance Office, New South Wales when their franchise was extended to include life assurance.

(4) When the Government Insurance Office, New South Wales went into life assurance in 1943, the Government made a special grant of $100,000 and a further $100,000 was borrowed from other Government Insurance Office Departments to establish its life assurance fund.

After five years, the fund stood at just under $1 million, and the office was writing over 3,000 new policies per annum. Funds were then available to repay this special grant.

It has not cost the New South Wales Government one cent to establish the life office. On the contrary, it is now contributing handsomely to State revenue. There appears to be no reason why we should not follow a similar pattern in Western Australia.

43. NAVAL BASE AT COCKBURN SOUND

*Port Developments and Environmental Protection*

Mr. RUSHTON, to the Minister for Works:

(1) As evidence given to the Commonwealth Parliamentary Public Works Committee regarding the establishment of H.M.A.S. Stirling on Garden Island indicated Commonwealth Departments had not given consideration to building a shipbuilding and maintenance dock on the island or having negotiated such a joint venture with our State Government, does this mean the previous intention of having a private dock in Cockburn Sound has been abandoned?

(2) As witnesses refused to give evidence relating to pollution and stability in Cockburn Sound including the condition of the sea grass other than to confirm that no deleterious effects had resulted from the Garden Island causeway construction, will he advise whether the Fremantle Port Authority or its researchers have detected any deterioration of the ecology in Cockburn Sound during this period of construction from any other source?

(3) If "Yes",

(a) from what source;

(b) in what form is the deterioration showing?

(4) Has the Fremantle Port Authority previously planned to create wharves for container shipping on Garden Island or near waters to—

(a) obtain adequate space for such an operation;

(b) preserve Point Peron and Rockingham beaches?

(5) Will the reclamation of 100 acres of Point Peron foreshore and annexation of approximately another 100 acres of Point Peron reserve in fact provide sufficient land backing for container shipping of any magnitude?

(6) Will he table the evidence held by the Fremantle Port Authority regarding assessment of the pollution and the ecology which can be expected in and on Mangles Bay, Cockburn Sound and the Rockingham and Point Peron beaches after construction and use of stage 1 berths on Point Peron?

(7) Will he table the Fremantle Port Authority's master plan for the future development of Cockburn Sound?

(8) Is it a fact the new development plans provide for the Fremantle Port Authority to acquire the foreshore recreational reserve from Kwinana Beach "A"-class reserve to the Co-operative Bulk Handling installation?

(9) Why was Cabinet approval of three berths on the foreshore of Point Peron given before receiving the report of the Environmental Protection Authority?

(10) When is the Environmental Protection Authority expected to make its report?

(11) Will he table a copy of the report in the House or let me have a copy?

(12) Has a decision been taken where to re-site the Cruising Yacht Club?

(13) If "Yes", where?

(14) If "No" when can this long delayed decision be expected?

Mr. JAMIESON replied:

(1) No.

(2) Yes.

(3) (a) Effluent from mainland industries.

(b) Deterioration in growth of sea grass.

(4) No.

(5) Yes.

(6) Though studies are incomplete and a report cannot be tabled at present, results received to date establish that the foreshores at Rockingham will not be adversely affected by Stage I of the Fremantle Port Authority developments.

(7) I refer the Member to the report of the Premier's Committee already tabled, pages 13, 15 and 33.

(8) I refer the Member to the report of the Premier's Committee already tabled, recommendation 12A, page 5.

(9) The Fremantle Port Authority amended proposals were approved by Cabinet in principle only and as such were subject to a report from the Environmental Protection Authority.

(10) and (11) These questions should be addressed to the Minister for Environmental Protection.

(12) Yes.

(13) On the foreshore in the vicinity of Alexandra Street north-east of Bell Park.

(14) Answered by (13).

44. TOWN PLANNING

*Corridor Plan: Ritter Report*

Mr. COURT, to the Minister for Town Planning:

(1) Has he and his officers finished their studies of the Ritter report on the corridor plan?

(2) If not, when will they be complete?

(3) Is he able to indicate—

(a) his own reaction to the Ritter report;

(b) the reaction of the Metropolitan Region Planning Authority?

Mr. GRAHAM replied:

(1) No.

(2) Expected by the end of April.

(3) (a) In due course Cabinet will give consideration to the report.

(b) No.

## QUESTIONS (6): WITHOUT NOTICE

1. SEX SHOP

*Action by Trades Hall*

Sir DAVID BRAND, to the Deputy Premier:

In the absence of the Premier I would like to ask the Deputy Premier a question without notice as follows:—

(1) Has he been advised that the State Executive of the A.L.P. at its meeting last night carried a resolution designed to frustrate him in his stated intention to rid Perth of the sex shop?

(2) Is this yet another example of the interference of Trades Hall in the activities of the elected representatives of the people?

(3) Can we assume that the delay in closing the shop is because of pressure from Trades Hall? If that is not the case, will he say why the shop has been allowed to operate for so long?

(4) Will the Premier reaffirm the statement he made in this House on the 14th March, 1972, that it is the Government's intention to do everything in its power to prevent the shop from operating?

(5) When will the shop be closed?

Mr. Davies: I see the Victorian Liberal Party is going to allow legislation for pools.

Sir DAVID BRAND: The Victorian Liberal Party has nothing to do with this.

Mr. GRAHAM replied:

Unfortunately the Premier at present is engaged at a public gathering, but the reply to the question asked by the Leader of the Opposition is as follows:—

(1) No.

(2) No.

(3) No.

(4) and (5) The matter is currently being considered by the Government.

2. IRON ORE

*Hamersley: Details and Plans*

Mr. COURT, to the Minister for Mines:

(1) Will he please summarise the details of the controversy that has developed in respect of possible mining on the Hamersley Range near Wittenoom, including, amongst other appropriate things—

(a) The relationship of the area to the recently signed agreements with Hanwright and Hamersley Iron?

(b) The original national park boundaries and any revision that has been made or is proposed as a result of the agreement recently signed?

(2) Will he table plans to demonstrate where the conflict has arisen?

(3) When will the ratifying agreement be presented?

Mr. MAY replied:

I thank the Deputy Leader of the Opposition for some notice of this question, and the answer is as follows:—

(1) (a) and (b) Presumably the honourable member is referring to a recommendation by the National Trust of Australia (W.A.) that an area situated south of Wittenoom Gorge townsite and north of National Park No. A.33082, be added to the national park.

Part of the area in question is included under the "mining areas" in the recently-signed agreement with Hancock Prospecting Pty. Ltd. and Wright Prospecting Pty. Ltd. In further explanation, a substantial part of the area has been held under mineral claims for asbestos at least since 1962 while almost the entire area has been the subject of temporary reserves for iron ore since 1967. The temporary reserves were included in the "mining areas" under the Hanwright (Iron Ore) Agreement Acts of 1967 and 1968.

Under the agreement recently signed with Hancock and Wright the following adjustments to mining areas have been made:—

(i) the area in which the National Trust is interested has been reduced in size; and

(ii) the mining areas within the national park have, as a result of reduction in size of temporary reserves and allocation of other areas, been reduced from 242 square miles to 155 square miles.

The amended areas could result in a revision of the boundaries of the national park.

(2) A plan demonstrating what has been explained in respect of the National Trust's recommendation is tabled.

(3) At the current session of Parliament.

*The plan was tabled.*

3. ABATTOIRS

*Trades and Labor Council and Farmers: Deputation*

Mr. REID, to the Minister for Works:

With reference to question 4 on today's notice paper—

(1) Does the Minister think that the reply to the first part of the question is fair; namely, that he did receive a deputation on the 29th March from the Trades and Labor Council and the U.F.G.A., when in fact the deputation had been sought by the Boyup Brook Shire Council, on whose behalf I introduced the deputation?

(2) Is he also aware that following agreement by the Minister to receive the deputation approaches were made to me to request the inclusion in the deputation of a member of the T.L.C. and a member of the United Farmers and Graziers Association, and the member for Collie (Mr. Tom Jones, M.L.A.)?

Mr. JAMIESON replied:

I have had no notice of the question and it is rather lengthy. However, as far as I can recall, the answer given on my behalf by one of my colleagues was factual as to the personnel of the deputation. The only comment I wish to make, other than that made in answering the honourable member's question on notice, is to convey to him the information that although the member for Collie was supposed to be included on the deputation he was not advised until the deputation was over.

4. MIDLAND JUNCTION ABATTOIR

*Effluent Disposal System*

Mr. THOMPSON, to the Minister for Agriculture:

(1) Will he state when the present effluent disposal system at the Midland Junction Abattoir will be replaced with an effective system and thus render redundant the section of the present system now situated outside the noxious trade area?

(2) What action will he take to provide killing facilities should an injunction against disposal of effluent in the Helena Valley area succeed thereby causing the abattoir to close?

(3) If the success of such an injunction would not render it necessary to close the abattoir, will he state why such alternative areas for disposal have not been used to date?

The SPEAKER: Order! Parts (2) and (3) of this question are based on supposition and therefore are not permissible.

Mr. H. D. EVANS replied:

On your ruling, Mr. Speaker, the answer to the first part of the question asked by the member for Darling Range is that, further to previous answers given in this House, the costing of a proposition, which has been the subject of some very deep study over past months, is still taking place.

In addition, the General Manager of the Midland Junction Abattoir Board is going overseas this week, and on his trip he will take the opportunity to examine some modern and up-to-date chemical disposal methods. When these examinations have been concluded I will be in a better position, and maybe I will be able, to give a more precise answer.

5. TOWN PLANNING

*Housing Project: Kwinana Industrial Complex*

Mr. COURT, to the Minister for Town Planning:

I desire to seek clarification from the Minister following the answer he gave to part (7) of question 28 on today's notice paper. In reply to part (7) he said—

> It is presumed that this question refers to part (1) and not to part (7) as given and if so the answer is "Yes."

I still believe my question was properly addressed to part (7) of the question of the 21st March. This brings me back to the basis of part (7) of my question. Am I to presume that major subdivisions of this nature in respect of which there is a major change in classification—such as from residential to industrial, or industrial to residential—do not have to be submitted to the Environmental Protection Authority? I understood it was to be one of its functions to report on such matters.

Mr. GRAHAM replied:

I regret that the last part of the question on today's notice paper has been misinterpreted by the department. I give the honourable member an assurance that I will check on the matter and supply him with the particulars tomorrow.

6. RURAL RECONSTRUCTION AUTHORITY

*Applications: Approvals*

Mr. MOILER, to the Minister for Agriculture:

(1) How many applications have been approved by the Rural Reconstruction Authority?

(2) What is the total sum approved by the authority for accepted applicants?

(3) How much of this sum has actually been made available to applicants?

Mr. H. D. EVANS replied:

(1) 343.

(2) $8,184,797.

(3) $2,317,452.

These figures have been taken out as at the 4th April and are updated to those given in reply to an interjection by the member for Mt. Marshall in a debate which took place a short time ago.

## PRESBYTERIAN CHURCH OF AUSTRALIA ACT AMENDMENT BILL

*Third Reading*

Bill read a third time, on motion by Mr. T. D. Evans (Attorney-General), and transmitted to the Council.

## MINING BILL

*Second Reading*

**MR. MAY** (Clontarf — Minister for Mines) [5.21 p.m.]: I move—

That the Bill be now read a second time.

The Bill before members is for the purpose of bringing into force a new Mining Act.

As members are aware, the existing Act came into force in 1904—almost 70 years ago—at a time when gold was the State's predominant mineral. Consequently the Act was written around the conditions obtaining at that time, and although various amendments have been made over the intervening years they have by no means been able to cope with changed circumstances that include the search for and production of all minerals, the use of faster and more scientific methods, and the impact of sophisticated and far-reaching financial arrangements.

I scarcely need stress that the measure is a most important one. The new Act must contain provisions that will ensure that prospecting, exploration, and mining are able to be carried out under clear and concise conditions that will assist and accelerate the discovery of this State's true mineral wealth. It must also ensure that the rules of the mining game are understood and appreciated by all who are involved in the industry.

These are but some of the facets of the legislation. There are many other important objectives which must be attained, and in illustration I quote—

- There is the need to ensure that mining is controlled in State forests, national parks, and other reserves;
- there is the need to ensure that regard is paid to conserving the environment;
- that pollution of air and water is restricted to a minimum;
- that unwarranted destruction of natural flora and fauna does not occur; and
- that adequate protection is given to the holders of private property.

The factors I have just mentioned are not exhaustive, nor are they submitted as being in complete detail. This will become apparent when each part of the Bill is explained.

Because of the unprecedented expansion of the mining industry during the past decade when minerals such as iron, bauxite, and nickel became so prominent the mining business took on a role that made it obvious that existing legislation could no longer handle the situation in an efficient manner.

Accordingly, in July, 1970, a committee was established to inquire into and report on the operations of the Mining Act of the State, and to report on any and what amendments should be made to the Mining Act, 1904.

The committee delivered its report to the Minister for Mines in January, 1971. As copies of this report have been made available to members they will be aware that in essence the committee stated that it considered the Mining Act, 1904, to be inadequate and in need of considerable change to make it effective under present-day conditions. It finally recommended that new legislation be enacted, and made a number of recommendations that it felt should be included in a new Act.

The Government agreed that a new Mining Act was required to satisfy the modern trend in the mining industry including control of exploration, production of and, where necessary, conservation of the State's mineral resources.

The report and recommendations of the committee have been closely examined bearing in mind the practicalities to be catered for and the changes that have taken place during the past year.

The Bill now before the House has been prepared following these considerations and incorporates many of the recommendations made in the committee's report.

I have made reference to conserving the environment, the need to ensure that mining in reserved areas is controlled, and matters of a like nature. The subjects of conservation and mining are, however, deserving of more detailed comment, particularly in view of the present-day awareness and realisation of properly caring for our parks and reserves and of our flora and fauna. It would also be remiss of me not to mention the recommendations of the committee in these matters.

In the first instance I want to stress that there can be a great gulf between the thinking of people charged with the responsibility of developing our natural resources and those whose concern it is to safeguard and preserve the natural environment that we all enjoy. I feel it is obvious that both sides have to appreciate the opposing view and endeavour to arrive at a rational solution.

The provisions of the Bill thus ensure adequate protection of natural flora and fauna, etc., with the proviso that should the best interests of the State be served by allowing mining in State forests, other reserves, and national parks this may be permitted, but only after careful examination of each particular case by the departments concerned, the Environmental Protection Authority, and consideration of their reports by the Government—or in the case of Class "A" reserves and national parks in the southern part of the State, by Parliament.

Careful consideration has been given to the recommendation of the committee of inquiry that a strip of land, 40 chains wide along the coast, extending from the north boundary of the Shire of Northampton to the east boundary of the Shire of Esperance—a distance of approximately 1,000 miles—and including all the area covered by the water, beds and banks of all rivers and estuaries which flow through

the coastal strip, and extending seawards to the 15-fathom contour line, should be deemed an "A"-class reserve.

With the greatest respect to the committee's views it is considered that to treat all of the land in question as an "A"-class reserve with regard to mining prior to a detailed investigation of the area would indeed be premature.

It must be realised that if the committee's recommendation were accepted, we would be excluding 1,000 miles of coastline from prospecting for and mining of possible mineral deposits that could enhance the wealth of the State.

For this reason the mining inquiry committee's "coastal strip" recommendation has not been adopted. On the other hand the detailed investigation, to which I have referred, would be long and costly, and in view of ever-changing mineral demand, use, and economics would not be conclusive. It should also be appreciated that approximately half of this coastline is already reserved, including all areas of major public interest.

Mining applications affecting these reserves will be investigated in detail by both the Mines Department and the vested authority before any decisions are made to permit prospecting or mining. It is therefore considered more practicable to examine the coastal mineral potential when and where the necessity arises, rather than endeavour to undertake the job *in toto*.

It should also be remembered that the mining industry is one that appreciates the need for conservation, rehabilitation, and the necessity to combat pollution. It has, in fact, already made substantial financial contributions towards the study and control of these items.

With regard to the suggestion that the sea bed from high water mark to the 15-fathom contour line should also be included in the ban on mining, it must be pointed out that some of these waters may be outside the territorial limit.

In any case the matter of the control and ownership of off-shore minerals is still under discussion between the Commonwealth and State Governments in the Australian Minerals Council which is composed of representatives from the Commonwealth Government together with the Ministers for Mines for each State.

It is considered, therefore, that it would be unwise to include particular reference to the submerged lands off the coast in the present legislation.

The Bill is designed to give satisfactory protection to areas which for adequate reasons should not be available for mining, but without creating a situation where a mineral deposit which could be urgently required would be absolutely inaccessible by reason of a complete ban on mining over such a large area.

Probably the most serious criticism of the present Mining Act concerned the lack of satisfactory provisions for modern prospecting for minerals.

Organisations prepared to spend millions of dollars in the exploration for minerals and research into the economics of their production required some form of secure title to the areas in which they proposed to carry out exploration.

When the upsurge in mining occurred in the 1960s this need was met by the creation of temporary reserves and the granting of rights of occupancy of these reserves to applicants who undertook to carry out a satisfactory programme of work on them.

While this procedure was successful in the beginning, it was argued that it had a number of weaknesses from the company point of view. In the main these were that it was not an exclusive title; and further, that it left loopholes by which other interests could acquire areas within the boundaries of the temporary reserves. Prospectors, on the other hand, complained that the big companies were obtaining very large areas to the detriment of the small man. The position became so critical that a decision was made not to create any new temporary reserves with rights of occupancy for the purpose of prospecting for minerals.

As temporary reserves were no longer available companies and individuals rushed to protect the areas they wished to prospect by pegging mineral claims not exceeding 300 acres each, thus causing the greatest pegging exercise in the history of Western Australia.

To remedy this situation the committee recommended that two new types of mining titles be introduced; namely, a prospecting license and an exploration license. This recommendation has been accepted and provision for these has been made in the Bill.

Again as recommended in the report by the committee, only two types of leases will be available under the new Mining Act. One is to be called a mining lease and will provide for all the operations normally carried on in the mining and primary processing of ore and minerals. The other type of lease, to be known as a general purpose lease, is to provide areas for ancillary operations in connection with a mining project.

These leases may be situated some distance from the actual mining site and, for example, could include crushing and grinding plant, refineries, and smelters. The maximum area of each of these leases is large enough to contain the normal activities of a mine, but to provide for large-scale mining operations more than one lease may be granted to any one applicant.

Exclusive rights to prospect for all minerals except iron will be granted to the holders of prospecting licenses and to the holders of exploration licenses.

Mining leases, too, will give to the holder the exclusive right to all minerals except iron. The right to prospect, explore, and mine for iron may, however, be included by the Minister.

All miscellaneous holdings now in existence will remain in force after the proclamation of the new Act for sufficient time to allow the holders thereof to convert to appropriate titles under the new Act, or in some instances under the Land Act. Details of the conversion provisions are contained in the second schedule to the Bill.

Quarrying is considered to be primarily a mining operation and the control of quarries in respect of the normal safe working and inspection and control of methods used for the extraction of rock, stone, clay, sand, and gravel is vested in the Mines Department by the Mines Regulation Act.

The granting of mining licenses for the extraction of these substances is, however, vested in the shire councils and the Lands Department except in the gazetted goldfields. This divided control is not in the best interests of all concerned. To overcome this problem rock, stone, clay, sand, and gravel have been included in the new definition of "minerals" in the Bill.

The Mines Department, having regard of course for the requirements of local authorities, will now issue the mining privileges and will exercise a unified control over quarrying operations. The extractive industries will have only one authority to deal with and considerable duplication of records and work will be saved. Of great importance, too, is the fact that these substances are becoming more difficult to obtain within reasonably close distances of their use and consumption.

It is considered to be a matter for Government decision whether such deposits should be extracted or conserved, and their control by the Mines Department will ensure that these aspects will be considered at Government level.

Attention has been given to the problem of mining in respect of privately owned land. The private property sections of the Mining Act of 1904, as amended in 1970, have been examined, together with the recommendations of the committee to inquire into the Mining Act, and such legislation or proposed legislation as was available from other States and New Zealand. The clauses dealing with private property and mining and prospecting rights have been framed with a view to including the best features of all of these sources of information.

The interests of pastoral lessees have been examined and the provisions relating to prospecting and mining on pastoral leases are designed to give adequate safeguards and compensation to pastoralists while retaining the right of prospectors to seek for minerals without unduly restrictive prohibitions and conditions in respect of entry, prospecting, and marking off mining privileges on pastoral leases.

Part IIA and part XIII of the Mining Act, 1904, relate to the regulation of the coal industry and are not included in this Bill, but consideration is being given to their re-enactment as a separate Act under an appropriate title.

The Bill itself is divided into 11 parts. These are as follows:—

Part I—Preliminary

This part deals with the legal requirements in connection with the introduction and proclamation of a new Act. It includes the interpretations to be used in connection with the proposed Mining Act.

There have been some alterations to the definitions in the Mining Act, 1904. These alterations have been made to provide for modern terminology and new techniques in connection with mining.

The definition of "Crown Land" has been rewritten to meet present-day requirements.

The term "mineral" has been changed so that it embraces all substances for which a mining privilege may be granted. Gold, clay, stone, gravel, shale, sand, and limestone have all been included in the new definition. Specific exclusions are soil and any substance the recovery of which is governed by the petroleum Acts.

The term "mining" has been amended to include all mining operations and prospecting, and the term "mining operations" has been clearly defined to include all types of operations in connection with the recovery of minerals.

Agreements, the subject of Acts which have been assented to, are protected and remain in force.

Part II—Administration, Mineral Fields, and Courts

This part deals with the administration of the Act and the control of the Mines Department. It also sets out the procedures for the creation of mineral fields and warden's courts.

Part III—Miners' Rights

This part provides for the issue of a miner's right to any person of or above the age of 18 years and specifies what he may do by virtue of holding a miner's right.

In brief, a miner's right does not confer on the holder any right or title to an interest in any mining privilege but it does

empower him *inter alia* and subject to the Act to prospect for minerals and to mark off any land open for mining. It may be of interest to note that the committee appointed to inquire into the Mining Act recommended that miners' rights should be deleted from the provisions of the new Act.

Our inquiries have revealed that use of this document is favoured in all other States and for our own part we felt it desirable to continue to issue miners' rights as they act, for example, as a permit or passport to enter on pastoral leases.

Part IV—Land Open for Mining

Division 1—Crown Land:

This part declares, subject to and in accordance with the Act, all Crown Land to be open for mining. Under clause 23 the Minister is empowered to exempt any Crown Land from mining or from any specified mining purpose, or from the Act or any specified provision of the Act.

While any Crown land is so exempted applications may be called for mining privileges in respect of such land or any part thereof on such terms and conditions as the Minister determines.

The purpose of the provision is to allow Crown land to be examined in some detail by the Geological Survey Branch of the Mines Department and where prospects for further development and mining appear feasible and desirable all interested parties may submit applications for mining privileges. The part also allows the Minister to prevent mining taking place where, in his opinion, such activity would not be in the public interest.

Clause 24 prevents the holder of a miner's right from entering on, taking possession of, or interfering with Crown land that is—

(a) under crop or situated within 100 metres of such crop;

(b) used as or situated within 100 metres of a garden, cultivated field, orchard, vineyard and the like;

(c) situated within 100 metres of Crown land that is in actual occupation and on which a house or other substantial building is erected;

(d) the site of or within 100 metres of a cemetery or burial ground; and

(e) the site of or within 400 metres of any water works, dam, well, or bore.

The only exceptions to the restrictions I have mentioned are when the owner gives his written consent or where a warden by order otherwise directs. However, the warden is precluded from making the order unless he is satisfied the land is *bona fide* required for mining purposes and that adequate compensation has been agreed upon or assessed and settled by the warden.

Under clause 25 the Governor, under and subject to the Public Works Act, 1902, may resume for the Crown any land that in his opinion ought to be resumed for the purposes of the Act. When land is so resumed the owner and occupier is entitled to compensation and this has been provided for but there will be no compensation for minerals.

Division 2—Public Reserves:

Land specified in this division is not open for mining except as specifically provided for therein. In summary, land classified as Class "A" or known as, provided for, or used as a "national park" in the South-West Division of the State as described in section 28 of the Land Act, 1933, or in the municipal district of the Shire of Esperance or Ravensthorpe and reserved pursuant to part III of the Land Act, is not open for mining except under certain conditions.

These conditions are that an application must be made to the Minister for the grant of a mining privilege and both Houses of Parliament, by resolution, need to give their consent. If consent is given then mining would only be permitted on terms and conditions specified in the resolution. In addition no marking out of a mining privilge in the areas described may take place without the prior consent of the Minister for Mines and the other responsible Minister.

As indicated by the mining inquiry committee, different considerations apply to the sparsely populated remainder of the State where mining has been a mainstay for nearly a century and, indeed, is now the principal industry. In this vast and isolated area, however, mining will not be permitted on any reserve without the Minister's written consent.

If such consent is given the Minister may impose terms and conditions but not before he has consulted and obtained the recommendations of the responsible Minister, the Environmental Protection Authority, and the council of the municipality, public body, or trustees, or other persons in which the management of such land is vested.

With regard to State forests or timber reserves, under the Forests Act, 1918, mining may only be carried out with the written consent of the Minister and then upon such terms and conditions, if any, as are specified in the consent. However, before giving his consent whether conditionally or unconditionally, the Minister is required to first consult with and obtain the concurrence of the Minister for Forests.

A similar situation exists in respect of mining on the following:—

(a) land that is a water reserve or catchment area for the purposes of the Metropolitan Water Supply, Sewerage, and Drainage Act, 1909;

(b) land proclaimed to be a reserve for natives pursuant to the Native Welfare Act 1963; and

(c) land that comprises the foreshore or that is under any navigable waters in the South-West Division of the State or in a municipal district in the Shire of Esperance or Ravensthorpe where such land in those two municipal districts is not reserved pursuant to the Land Act, 1933;

inasmuch as it will be necessary to obtain the written consent of the Minister who may refuse his consent or give it subject to such terms and conditions as he specifies. However, before giving his consent, whether conditionally or unconditionally, the Minister must first consult with the responsible Minister and obtain his recommendations on the proposals to carry out mining.

Furthermore, where mining is proposed on water reserves, catchment areas, or native reserves, the application or proposal must be submitted by the Minister to the Environmental Protection Authority.

Although mining may be carried out on land reserved pursuant to part III of the Land Act, 1933—that is, land which is not of Class "A" or a national park in the southern part of the State—water reserves or catchment areas, native reserves, and land that comprises the foreshore or that is under any navigable waters in the South-West Division of the State, or in the municipal districts of Esperance or Ravensthorpe, but subject to the necessary approvals I have mentioned, marking out may be carried out on these reserves in accordance with the provisions of the new Act.

However, with respect to State forests or timber reserves, these may be marked out only if this work is done in accordance with the new Mining Act and subject to such conditions and restrictions, if any, as are lawfully prescribed under section 30 of the Forests Act, 1918.

It will be of interest to note that conditions that may be imposed regarding mining operations include—

(a) the making good of injury to the surface of the land or injury to anything on the surface and where default occurs the person having the control and management of such land may carry out the required work and recover the cost by court action;

(b) confining mining to such depth being not less than 20 metres below the surface as may be specified in the condition;

(c) the lodging of a security to cover probable cost; and

(d) payment of compensation for any loss or damage caused by mining operations.

The Bill also provides that mining privileges shall not be granted unless the Minister gives his written consent, in respect of—

(a) any part of the foreshore between high water mark and low water mark; or

(b) any part of the sea bed between the low water mark and the seaward limits of the territorial waters of the State;

(c) any land under navigable waters in the State; or

(d) any land reserved as a site for a town.

The Minister is empowered either to consent or refuse to give his consent subject to terms and conditions decided upon after he has consulted, as the case requires, the Minister for Local Government, the Minister for Lands, the council of the relevant municipality, the port authority concerned, or the Minister for Works.

Divison 3—Private Land:

The provisions with regard to private land are much the same as those which have prevailed since amendments were made in 1970 to this part of the existing Mining Act. This type of land is only open to mining under very specific restrictions which include—

(a) a permit to enter limited to 30 days for the purpose of surface sampling and/or marking out a mining privilege;

(b) immediate notice of entry to the occupier and similar notice within 48 hours to an owner if none of the owners are in occupation of the land;

(c) notice of any application for a mining privilege affecting private land to be given to the clerk of the council of the municipality and to the owner and occupier;

(d) no prospecting or mining on yards, gardens, orchards, vineyards, plant nurseries, etc., on land under cultivation, or within 100 metres (328 feet) of such land without the consent in writing of the owner and occupier; and

(e) no prospecting or mining on the surface or within a depth of 31 metres (102 feet) from the surface of any private land until adequate compensation has been arranged.

However, in an effort to restrict landowners trafficking in minerals belonging to the Crown, provision has been made in the Bill for private land to be included in the grant of a mining privilege. Such a grant does not authorise the holder to prospect or mine on any private land within the boundaries of his mining privilege unless he has obtained all necessary consents of owners and occupiers and has arranged compensation.

The grant does, however, permit him to prospect and mine around and at a depth under the land if he has access thereto, and this will facilitate, in particular, mineral investigations under exploration licenses which may consist only partly of private land. This concept encourages exploration with as little disturbance as possible to the surface of private land, and follows the Petroleum Act procedure which has operated very satisfactorily in this regard.

Mineral ownership in land alienated before 1899 as set out in the present Mining Act has been provided for in the Bill, and the existing method of bringing such land under the Act by petition has been repeated in a simplified form.

Part V—Mining Privileges

Division 1—Prospecting Licenses:

As I have pointed out earlier, the committee recommended that two new types of mining title should be introduced; namely, a prospecting license and an exploration license. This recommendation was accepted.

The prospecting license is a short-term mining privilege which remains in force for a period of two years from and including the date on which it was granted. The area of land comprised in one prospecting license shall not exceed 200 hectares (494.2 acres).

A warden may grant more than one prospecting license to the same person, but unless he has the approval of the Minister he cannot grant a prospecting license in respect of any land that is contiguous to any other land which is the subject of a prospecting license held by that person. The purpose of this provision is to ensure that a large area of land, which could more properly be taken care of through the possession of an exploration license, is not improperly held by one person and, furthermore, to allow small prospectors to have an equitable share in prospecting work throughout the State.

Clause 57 (1) of the Bill also provides that except with the prior consent in writing of the Minister the maximum number of prospecting licenses that may be held or controlled by any one person at any time shall not exceed 10.

Applications for prospecting licenses are required to be lodged in the prescribed form and to be accompanied by a map on which are clearly delineated the boundaries of the area of the land in respect of which the license is sought, together with an accurate description of the area. The application is to be lodged with the warden of the mineral field for the district wherein the land is situated and must be accompanied by the amount of the prescribed rent for the first year or portion thereof.

Machinery provisions allow for notice of the application to be given to the owner and occupier of the land to which the application relates and to such other persons as may be prescribed. In addition, reference is made to action to be taken in respect of the warden's hearing of the application.

Where more than one application for a prospecting license is made with respect to the same land, the applicant who first took possession of and marked out the land in accordance with the regulations will have, subject to the Act, the right in priority over every other applicant to have granted to him a prospecting license in respect of that land.

When a prospecting license expires the land the subject of that license or any part thereof shall not be marked out as a mining privilege—

(a) by or on behalf of the person who was the holder of the prospecting license immediately prior to the date of expiry; or

(b) by or on behalf of any person who had an interest in the prospecting license immediately prior to that date,

within a period of three months from and including that date. The purpose of this provision is to allow other people who may be interested in the area to make an application within that three-month period, after which the original holder may again apply.

Although the Minister or the warden may prescribe any particular conditions with respect to a prospecting license, every prospecting license is subject to the following conditions:—

(a) that the holder of the license will vigorously and continuously carry out prospecting operations to the satisfaction of the Minister;

(b) that all minerals discovered in or on the land the subject of the prospecting license are promptly reported in writing by the holder to the Minister;

(c) that all holes, pits, trenches, and other disturbances to the surface of the land made while prospecting and likely to prove dangerous

will be filled in—the Minister may also direct other holes, pits, and trenches to be filled in; and

(d) that all necessary steps are taken by the holder to prevent fire, damage to trees or other property, and to prevent damage to any property or damage to livestock by the presence of dogs, the discharge of firearms, or otherwise.

It will be seen that it is the intention of clause 49(1) to ensure that prospecting operations are pursued in the proper manner, that the Minister is made aware of the discovery of minerals, that the land so prospected is taken care of, and that damage to the environment and to other property or livestock is prevented.

It will be noted that land the subject of prospecting licenses is not required to be surveyed unless a boundary dispute occurs. In such cases the Minister may order a survey to be made in order to settle the dispute.

Division 2—Exploration License:

The proposed new legislation allows for the issue of a mining privilege to be known as an exploration license. Exploration licenses will be issued on such terms and conditions as the Minister determines. This type of mining privilege provides for the longer term comprehensive exploration of a larger tract of land and gives the holder of the license priority over any other person in the granting to him of a mining lease, a general purpose lease—which I shall deal with later—or both.

The area of land covered by a single exploration license is at a minimum 20 square kilometres (4,942 acres), and at the maximum 200 square kilometres (49,420 acres).

Subject to the proposed Act, an exploration license remains in force for four years but at the end of the second year the holder must surrender one half of the area of the land covered by the license and at the end of the third year he must surrender one half of the land that is then subject to the license. This provision was included in the Bill following an inspection of the heavily soiled nickel areas. It is felt adequate provision should be made to ensure that all types of exploration take place.

Application for an exploration license must be made in the prescribed form and be lodged with the warden of the mineral field or district wherein the land to which the application relates is situated.

As I indicated earlier, an exploration license is a type of mining privilege requiring the holder to carry out a comprehensive and thorough exploration programme. For this reason, when application for the license is made it must be accompanied by a statement specifying—

(a) the proposed method of exploration;

(b) details of the proposed programme of work;

(c) the estimated amount of money proposed to be expended on exploration; and

(d) the technical and financial resources available to the applicant.

It is also required that an applicant lodge with his application a security for compliance with the conditions to which the exploration license will be subject.

An application for an exploration license shall be heard by the warden in open court and any person is entitled to object. After hearing of the application the warden is required to transmit to the Minister his report recommending the granting or refusal of the license. The Minister may grant or refuse the exploration license as he determines, whether or not the warden recommends the granting or refusal of the license. That is the position which obtains at the present time.

There will be certain conditions attached to the grant of an exploration license to ensure that the holder of the license will explore for minerals on a large scale and—

(a) vigorously and continuously carry out operations in the exploration for minerals to the satisfaction of the Minister;

(b) carry out such aerial, geological, geophysical, or geochemical surveys as the Minister approves;

(c) lodge with the Mines Department prescribed reports;

(d) promptly report in writing to the Minister details of all minerals discovered; and

(e) fill in all holes, pits, trenches, and other disturbances to the surface of the land that are likely to prove dangerous, and in addition fill in all holes, pits, trenches, etc., as the Minister may direct.

In order to ensure as far as possible that licenses are held by genuine operators no transfer of a license may be made during the first two years of the term of the license, and at any time after the first two years the Minister may consent or refuse his consent to any application for a transfer. When he does consent he may impose such conditions on the transferee as he thinks fit.

The rights conferred on the holder of an exploration license, subject to the Act and in accordance with any conditions to which the license may be subject, are—

(1) to enter and re-enter the land the subject of the license with such agents, employees, vehicles, machinery, and equipment as may be necessary or expedient for the purpose of exploring for minerals in or on the land;

(2) to explore, subject to any conditions imposed under clause 27, for minerals, and to carry on such operations and carry out such works as are necessary for that purpose on such land including digging pits, trenches, and holes, and sinking bores and tunnels to the extent necessary for the purpose in, on, or under the land;

(3) to extract and remove, subject to any conditions imposed under clause 27, from such land for sampling and testing a prescribed amount of ore or such greater amount as the Minister may, in any case, approve in writing; and

(4) to take and divert, subject to the Rights in Water and Irrigation Act, 1914, water from any natural spring, lake, pool, or stream situate in or flowing through such land, to sink a well or bore on such land and take water therefrom, and to use the water so taken for his domestic purposes and for any purposes in connection with exploring for minerals on the land.

An important provision in the Bill is contained in clause 74 in so far as adjoining licenses (prospecting or exploration) unless approved in writing by the Minister shall not be granted to or held by one person.

The clause also provides for the Minister's jurisdiction to cover control exercised by a number of means including interests in various companies, moral or other influence, collusion, partnerships or other agreements, etc.

Other provisions in the Bill under this division cover—

(1) the protection from the Minister's powers under clause 60 (4) in respect of land the subject of an existing mineral claim or dredging claim under the repealed Act;

(2) the need for survey in disputed boundary cases;

(3) the need for an application to be accompanied by a map clearly delineating the boundaries of the area of land to be covered by the license together with an accurate description of the area;

(4) labour conditions;

(5) surrendered land open for mining; and

(6) the requirement for the holder of an exploration license to keep complete and detailed records of the surveys and other operations conducted.

Division 3—Mining Lease:

This division provides for the grant of a mining lease on such terms and conditions as the Minister determines. While there are no restrictions on the number of leases that may be granted, any one mining lease cannot exceed 10 square kilometres (2,471 acres) in area. The same provisions in respect of the application for an exploration license apply in the case of an application for a mineral lease except that a survey fee must be paid.

It will be appreciated that this lease is a somewhat different mining privilege from either a prospecting license or an exploration license inasmuch as it gives the right to produce and sell minerals and is long term; that is, 21 years with possible renewal for a successive term of 21 years.

Mr. Grayden: What will be the annual rental on these?

Mr. MAY: It is as provided for at the present time in the regulations. The division provides for a warden's hearing in respect of objections and transmittal to the Minister of the warden's notes of evidence, documents, and his report recommending the granting or refusal of the mining lease. The grant or refusal of the mining lease whether or not the warden recommends the granting or refusal thereof rests with the Minister.

Under clause 79 the rights of other holders of current mining privileges are protected to the extent that any mining lease granted to an applicant shall not include any portion of the land already otherwise held.

Clause 80 gives priority, when more than one application is made for a mining lease of the same land or any part thereof, to the applicant who first took possession of and marked out the land.

The covenants and conditions which a lease shall contain and be subject to are outlined in clause 85 and in particular shall be deemed to be granted subject to the conditions that the lessee shall—

(1) pay the rents and royalties due under the lease at the prescribed time and in the prescribed manner;

(2) use the land in respect of which the lease is granted only for mining purposes in accordance with the Act;

(3) comply with the prescribed labour conditions applicable to such land unless partial or total exemption therefrom is granted;

(4) not assign, underlet, or part with possession of such land or any part thereof without the prior written consent of the Minister, or of an officer of the Mines Department acting with the authority of the Minister;

(5) lodge with the Mines Department, Perth, such periodical reports and returns as may be prescribed;

(6) promptly report in writing to the Minister details of all minerals discovered in or on the land the subject of the mining lease; and

(7) forfeit the lease if he is in breach of any of the covenants or conditions thereof.

For breach of condition of a lease the Minister, as an alternative to forfeiture of the lease, may impose a fine not exceeding $1,000. For the purpose of preventing or reducing, or making good, injury to the surface of the land or injury to anything on the surface of the land in respect of which the lease is sought or was granted, the Minister may impose such conditions as he thinks fit. These conditions may be imposed at the time of the granting of the mining lease or at any subsequent time.

Furthermore, the Minister may, at the time the mining lease is granted, or subsequently, impose on the lessee a condition that mining operations shall not be carried out within such distance of the surface of the land in respect of which the lease is sought or was granted, as the Minister may specify. The Minister also has the power to cancel or vary at any time any such condition imposed.

The rights of the holder of a mining lease—or his agents and employees—are, subject to the Act, such that he may—

(1) work and mine the land for any minerals;

(2) take and remove from the land any minerals and dispose of them; and

(3) do all acts and things that are necessary to carry out mining operations effectually.

Again, subject to the Act, the lessee of a mining lease is entitled to use the land for mining purposes and he owns all minerals lawfully mined from the land the subject of the mining lease.

Division 4—General Purpose Lease:

It will be appreciated that it is necessary, as an adjunct to actual mining, for land to be held for ancillary purposes such as—

(a) the erection and operation of machinery;

(b) the depositing or treating of minerals won from a mining lease; and

(c) for other miscellaneous purposes directly connected with mining operations.

It is proposed that under the new Act leases for the purposes I have mentioned will be obtainable by lessees of mining leases, and these will be known as general purpose leases.

Although it will be possible, subject to the Act, to be granted more than one general purpose lease the area of each lease will be restricted to a maximum of 250 hectares—or 617.7 acres. The reason for the restriction in area is to ensure that no more land than that actually required for the specific purpose is held.

As with other mining privileges initial application for this type of lease is to the warden with provision for objection and court hearing. Final decision on the granting of applications rests with the Minister following consideration of the warden's recommendation, and any grant will be subject to such terms and conditions as the Minister may determine. A general purpose lease will remain in force only until the expiry date of the mining lease in relation to which it was granted.

Division 5—Miscellaneous Licenses:

In the conduct of mining operations there is a need for ancillary authorities and these have been catered for in the Bill by giving power to the warden to issue any necessary licenses to people who possess a miner's right and who hold either a prospecting license, exploration license, or mining lease.

Subject to the provisions of the new Act and, in the case of a water license, to the Rights in Water and Irrigation Act, 1914, the warden may on application being made grant the following classes of license:—

(1) a road license;

(2) a tramway license;

(3) an aerial rope way license;

(4) a pipeline license;

(5) a tunnel license;

(6) a bridge license;

(7) a water license; and

(8) a license for any prescribed purpose.

A license when issued will be in a prescribed form and authorise the holder to do only those matters and things and on such terms and conditions as are so prescribed in the license. However, the warden may specify such further terms and conditions as he considers proper in the circumstances.

On application for a license being made, notice must be given at least 10 days before the hearing before the warden to the council of the municipality wherein the land to which the application relates is situated, and such notice must also be given to other persons as may be prescribed.

The council is then entitled to be heard in the warden's court, and may submit to the warden any terms and conditions to which it considers the license, if granted, should be subject.

It will be necessary, before the grant of any license, for the applicant to mark out the land in respect of which the license is sought, and submit with his application a map on which are clearly

delineated the boundaries of the area of the land involved. An accurate description of the land must also be given.

The term of any license granted will be such that it expires on the expiry date of the prospecting license, exploration license, or mining lease in respect of which it was granted.

The holder of a mining lease in respect of which a license was granted has been given the right in priority over every other person to have granted to him a new license in respect of the land to which the existing license relates, provided he makes application not later than 30 days before the expiration of the existing license. However, a new license will not be granted if a renewal is not obtained of the mining lease in respect of which the existing license was granted.

Division 6—Surrender and Forfeiture of Mining Privileges:

The Bill provides that in the new legislation the holder of any mining privilege may surrender such privilege in whole or in part. The form of surrender is to be prescribed in the regulations, and the holder of a privilege will be required to pay any rent, fee, royalty, penalty, or other money that is payable prior to the date of surrender, and to perform any obligation for which he is liable up to the date of surrender. He, too, will remain liable for any act done or default made on or before the date of surrender.

The regulations will also provide that, where a mining privilege is surrendered, rent whether paid or payable will be apportioned and any refund due will be made to the holder.

Circumstances could arise where a mining privilege is surrendered in part only, and in this case it will be necessary for the form of surrender to be accompanied by a map on which is clearly delineated the boundaries of the part of the privilege that is being surrendered, together with an accurate description of that area.

In the case which I have just previously described, notification will be endorsed on the mining privilege and there will be a reduction in rent payable.

As would be expected, where a mining privilege is surrendered in whole or in part every right, title, and interest previously held shall absolutely cease and determine on the date the surrender is accepted.

Under clause 99 of the Bill, power is given to the warden to make an order for the forfeiture of any mining privilege other than an exploration license, a mining lease, or a general purpose lease where application is made by the Minister or any officer of the Mines Department so authorised by the Minister or by a person who is the holder of a miner's right.

Before any such order is given by the warden's court, it must be satisfied that the requirements of the Act in relation to the mining privilege for which application for forfeiture has been made, have not been complied with in a material respect and that the matter is of sufficient gravity to justify forfeiture.

The warden's court, instead of making an order for forfeiture, may impose a fine not exceeding $500 upon the holder of the mining privilege and award the whole or any part of the fine to the applicant—provided the applicant is not the Minister or an authorised officer of the Mines Department—or it may impose no penalty on the holder.

Where an order for forfeiture is made, and the applicant is not the Minister or an authorised officer of the Mines Department, such applicant is given a period of 14 days after the date of the order during which he has the right in priority to any other person to mark out a mining privilege upon the whole or part of the land that was the subject of the forfeiture.

Where an application is made for forfeiture and the applicant fails to proceed with such application, the warden's court may award the holder of the mining privilege such sum for costs and expenses as the court thinks fit.

Under clause 100(1) the Minister may declare by notice in the *Government Gazette* that a mining lease or general purpose lease is forfeited for nonpayment of rent or royalty or for a breach of any covenent inserted in the lease.

The Minister is also empowered by giving notice in the *Government Gazette* to reinstate the lessee if he considers that sufficient cause has been shown for such action to be taken. Where a reinstatement of this nature occurs, the Minister may impose upon the lessee such conditions as he thinks fit.

As would be expected the Bill contains provisions whereby the holder of a miner's right may make application to a warden's court for an exploration license, a mining lease, or a general purpose lease to be forfeited where labour conditions specified under the Act are not being complied with. Any such application must be in the prescribed manner and the application for forfeiture must be heard in open court by the warden's court.

Where a warden's court is satisfied that the holder of the mining privilege to which I have just referred has failed to comply with conditions of his privilege, the court may recommend forfeiture or impose a fine not exceeding $500; or, of course, it may dismiss the application. Where a fine is imposed, the whole of the fine or part thereof may be awarded to the applicant.

The warden's recommendation for forfeiture cannot be lightly made, because the court must be satisfied that the noncompliance is of sufficient gravity to justify the forfeiture.

After the hearing the warden is required to send to the Minister the notes of evidence with a report on the court's recommendation, and the Minister, before making a decision, can require the warden to take further evidence or rehear the application.

The legislation makes provision for non-forfeiture of mining privileges if labour conditions have not been met because of industrial unrest. Protection is afforded to the holder of a mining privilege as he may be awarded costs and expenses if an applicant fails to proceed with his application for forfeiture.

The actions which the Minister may take on receiving a recommendation from the warden are—

(a) declare the exploration license or the lease forfeited;

(b) impose a fine not exceeding $1,000 and award the whole or part of the fine to the applicant on whose application the license or the lease was forfeited; and

(c) determine not to forfeit or impose any fine.

Formal notice of the forfeiture is effected by publication in the *Government Gazette*.

An applicant who is successful in obtaining the forfeiture of an exploration license, mining lease, or general purpose lease, has a right in priority for a period of 14 days to mark out a mining privilege upon the whole or part of the land that was forfeited.

Provision is made in the proposed legislation for action in the warden's court to proceed where the holder of the mining privilege is a company in the process of being wound up or provisionally liquidated, notwithstanding anything to the contrary in the Companies Act.

Division 7—Exemption from Conditions of Labour:

Under this division the holder of a mining privilege may be granted, either in whole or in part, exemption from prescribed conditions of labour for any period not exceeding 12 months. Where the application is for a period longer than 14 days, it must be heard by the warden in open court.

Part VI—Tribute Agreements

This part defines a "tribute agreement" as an agreement between the holder of a mining lease and another person, or the owner of a mine and another person by which the other person has a right to mine the land the subject of the lease or any part of it, or has the right to work the mine or any part of it, on terms requiring him to pay to the lessee or the owner such sum of money or other consideration or a percentage or portion of the earnings or proceeds won by him therefrom.

Tribute agreements must be in writing, signed by the parties thereto, and must describe the land to be mined and specify the period of time during which the agreement operates, which period shall not be less than six months.

*Sitting suspended from 6.15 to 7.30 p.m.*

Mr. MAY: Other particulars to be included in a tribute agreement may also be prescribed.

Within a period of 28 days after a tribute agreement has been executed, it must be lodged in the office of the warden for the mineral field or district to which the land referred to in the agreement relates.

The tribute agreement must be verified by statutory declaration and be accompanied by the prescribed fee. Provided the warden is satisfied that the agreement complies with the Act, the agreement shall be registered.

Where a dispute arises under a tribute agreement, it may, with the prior consent of the parties, be determined summarily by the warden or the mining registrar or the inspector of mines. Where there is no prior consent, every dispute under a tribute agreement is to be determined by the warden's court.

Although a tribute agreement may contain provisions to the contrary relating to the cancellation of the agreement or the forfeiture of the rights of the tributer, they will not operate or be enforceable without the consent of the warden's court.

In these cases the tributer must be given at least 10 days' notice in writing of the intention of the lessee or the owner to lodge an application for the consent of the warden's court.

Machinery provisions are written into the legislation with regard to the procedure to be adopted in fixing the time and place of hearing and representation by counsel.

Part VII—General Provisions relating to Mining and Mining Privileges

This part of the Bill deals in detail with many of the matters previously referred to in other clauses; but, in addition, proposes legislation in respect of some most important matters.

Initially, the part deals with the marking off procedures for people who hold a miner's right and specifies the authority of a surveyor in connection with the work he may carry out on mining privileges.

It should be noted that in marking out or surveying any land, every person entering on the land for that purpose shall ensure that no damage is done that with reasonable diligence could have been avoided.

It will be observed that the shape of the area of land the subject of a prospecting license, an exploration license, a mining lease, or a general purpose lease, shall as

nearly as practicable be in the form of a rectangle, the length of which shall not exceed twice the breadth.

No doubt members will recall that the report of the committee of inquiry into the Mining Act recommended that the types of mining privileges referred to above should be in the form of a square with boundaries running north, east, south, and west.

After careful examination of this recommendation, it was considered to be impractical to introduce because mineral deposits do not follow rigid geographic directions and areas of interest may be long and comparatively narrow.

This being the case, a square block running north, east, south, and west, could take in a great deal of country in which there were no minerals. In any case, under the committee's own recommendation on relinquishment, the original square would have become a rectangle on the occasion of the first relinquishment of area.

In explanation, the committee recommended that the part relinquished should be the northern, southern, eastern, or western half of the original area and it is quite obvious that if that procedure were adopted, a rectangular area would be the result.

Under clause 112 it is provided that any person without lawful authority, removing, destroying, or altering the position of boundary marks and notices, or wilfully obstructing, hindering, or interfering with any person lawfully engaged in the marking out or surveying of any land, is guilty of an offence punishable by the imposition of a fine.

Clause 113 makes it clear that it shall not be necessary to mark out the area or part of the area covered by the sea or the waters of any lake, pond, river, or stream.

Rent to be paid for mining privileges will be prescribed in the regulations, whilst the Governor, by regulation, will prescribe royalties payable in respect of minerals.

Mr. Grayden: Would you have the vaguest idea what the rent is likely to be on a mining lease? At the moment it is $2.

Mr. MAY: This matter is to be decided. We are looking at the question of a revision of the particular charges and we hope we will be able to make an announcement prior to the proclamation of this Bill. I assure the honourable member the matter is being carefully considered.

The Governor may also make regulations, either conditionally or unconditionally, for any person or class of persons to be exempted in any particular case from payment of royalties.

In certain circumstances, it is likely that in the public interest, a right to all minerals on a mining lease should not be given. Clause 116 therefore gives the Minister the power to authorise the holder of a mining lease to remove from the land the subject of the lease only such mineral as is specified.

Of major importance is clause 117, which states that notwithstanding the provisions of the clauses mentioned therein, neither a prospecting license, nor an exploration license, nor a mining lease authorises the holder thereof to prospect for iron, explore for iron, or mine the land for iron, unless the Minister, in writing, authorises the holder so to do.

I think it will be appreciated that iron ore prospecting, exploration, and ultimate development is something that must be planned, co-ordinated, and controlled by the Government. In order to achieve these objects it was considered necessary to write these particular provisions into the Bill.

It will also be noted that under this part of the Bill, a reservation has been made in favour of the Crown and any person authorised thereby to enter on any land, the subject of a prospecting license, or an exploration license, and remove therefrom any rock, stone, clay, sand, and gravel to use for any public purpose or for use in any prescribed work or undertaking.

Clause 119 provides that where a mining privilege has expired or is surrendered or forfeited, the owner of the land to which the mining privilege relates may take possession of the land forthwith.

Clause 120 defines "mining plant" and lays down what a "prescribed period" shall be for the purpose of this clause, which is to allow the person who was the holder of the mining privilege immediately prior to its expiry, surrender, or forfeiture, to remove any such mining plant, and to remove or treat any tailings or other mining product.

Where mining plant is not removed within a prescribed period, the Minister may at any time thereafter require the holder to show cause why any such mining plant that has not been removed should not be sold and removed. In cases where the holder does not satisfy the Minister on the point I have just referred to, the Minister may direct the mining plant to be sold by public auction.

Where mining plant is auctioned, the holder of the mining privilege will be paid the proceeds of the sale, after deduction of the costs of and incidental to the sale and removal of the plant.

The Minister also has the power to determine whether any mining plant should be allowed to remain on the mining privilege, and, if so, for how long, and shall also decide the amount of rent to be paid for the use and occupation of the land.

With regard to the tailings or other mining product left on mining privileges that have been surrendered or forfeited,

these shall become the absolute property of the Crown, if the holder of the mining privilege immediately prior to the expiry, surrender, or forfeiture, does not within the prescribed period remove or treat them and continue to do so.

The amount of rent to be paid for the use and occupation of land on which tailings or other mining product are allowed to remain will be determined by the Minister.

The provisions I have referred to in respect of mining plant, or tailings, or other mining products left on land after the prescribed period, do not apply where there is any valid agreement existing between the holder of a mining privilege or the owner or occupier of the land to which the privilege relates.

With regard to timber or other materials used and applied in the construction or support of any shaft, drive gallery, adit, terrace, race, dam, or other mining work, none of these shall be removed without the written consent of the Minister.

In order that the professional work of the Geological Survey Branch of the Mines Department may be properly pursued, clause 121 provides that the Director, Geological Survey, or any other officer of the Mines Department or any person working in conjunction with that department and under the director's instructions, may enter upon any land for the purpose of making any aerial, geological, geophysical, or geochemical surveys of the land and drilling thereon.

It is, however, provided that before any such person enters on any land for the purposes I have just described, he shall, if practicable, give reasonable notice to the owner and occupier of the land, of his intention to do so.

Furthermore, if required by the owner or occupier, he must produce the authority under which he claims to enter or to have entered on the land.

Where any damage is caused by a survey, the owner and occupier of the land are entitled to compensation, according to their respective interests, and if the amount of compensation cannot be agreed, it will be assessed and settled by the warden under part IX of the legislation.

Where a person is guilty of wilful obstruction, hindering, or interference to any person lawfully engaged in connection with a survey, or where a person without authority removes or destroys marking-off signs or other equipment used for the purposes of the survey, he is guilty of an offence under the Act and liable to be fined.

Pending the hearing and determination of the application, the legislation provides that the applicant may take possession of and hold the land during the intervening period.

The existing mining privileges acquired under the new legislation or under the repealed Act are protected inasmuch as no Crown grant or conveyance, nor the grant of any mining privilege, revokes the existing mining privilege.

This is made clear by subclause (2) of clause 123, wherein it is stated that each such Crown grant or conveyance and each such grant of a mining privilege shall be deemed to contain an express reservation of the rights to which the holder of the existing mining privilege is entitled.

Members will be aware that there has been strong criticism by pastoralists, of people engaged in the mining industry. Provision has been made accordingly in clause 124 for pastoralists to continue to be notified in regard to all applications for mining privileges on pastoral leases, and in addition, new compensation provisions, to which I will refer later, have been included in part IX of the Bill.

Provision is made in the Bill that subject to the Act, a mining privilege may be sold, encumbered, transmitted, seized under a warrant or writ of execution, or otherwise disposed of.

In addition, legal or equitable interest in or affecting a mining privilege may only be created, assigned, affected, or dealt with, whether directly or indirectly, by instrument in writing.

Part VIII—*Caveats*

The usual provisions relating to *caveats* have been included in the Bill to afford protection to people claiming an interest in a mining privilege.

If a *caveat* is by virtue of an agreement relating to the sale of an interest in a mining privilege it can remain in force for the period specified in the agreement, but otherwise it lapses after three months if the *caveator* has not taken court proceedings to establish his claim.

This latter provision relieves the mining privilege holder from having to initate action for removal of a *caveat* where the *caveator* has not established his claim.

Part IX—Compensation

The extensive compensation sections of the present Mining Act in regard to private land have been retained to provide adequate protection for landowners and occupiers. In addition, however, provision has been made in the Bill for compensation to be paid to pastoralists for damage and loss suffered as a result of mining operations.

Hitherto pastoralists have only had recourse to civil law in this regard, but in view of the increasing impact of large-scale mineral exploration and mining on these properties, direct compensation provisions under the Mining Act are considered warranted and have been included accordingly.

This part of the Bill also contains clauses to enable securities to be required where necessary to ensure that loss or damage likely to occur can be covered.

Part X—Administration of Justice

The establishment of wardens' courts throughout the State is continued as it provides a very conveniently decentralised system of mining justice.

It is not proposed to extend the warden's authority to the granting of exploration licenses and mining leases as it is considered that these should remain under the control of the Government through the Minister for Mines to ensure uniformity and, where necessary, co-ordination of exploration and mining activities.

The mining inquiry committee's recommendations in regard to a system of appeals from wardens to a chief mining warden to the Supreme Court are accordingly not applicable and have not been implemented, nor has the jurisdiction of wardens been limited in value to $1,000 as suggested. Members will appreciate that it is very difficult in the majority of mining disputes to put a monetary value on the subject matter.

There is nevertheless a right of appeal to the Supreme Court by any party aggrieved by a final judgment or determination or decision of a warden's court, except where the determination consists of a recommendation upon an application in which the final decision rests with the Governor or the Minister.

Part XI—Miscellaneous and Regulations

In this part of the Bill the usual law enforcement provisions, general penalties, and regulatory powers have been written.

While retaining the forfeiture and cancellation of mining privileges for noncompliance with the labour conditions and nonpayment of rent, other penalties have been increased to provide higher fines rather than imprisonment.

The general penalty for breach of the Act or regulations has been changed from $100 and/or six months' imprisonment to $500 and/or three months, plus $100 a day for a continuing offence.

It is noteworthy that provision has been made for company directors and officers to be also guilty of offences committed by companies with their authority, permission, or consent.

To protect public reserves, State forests, private and Crown land from unauthorised mining, clause 160 provides a special penalty of $1,000 for this offence, plus a further fine of $200 for every day the offence is continued. At this point I would like to indicate that subclause (2) of clause 160 is under reconsideration and an amendment will be submitted in the Committee stage, to make it more effective.

Many of the provisions in the present Mining Act have not been repeated in this proposed new Mining Act, some because they are obsolete and no longer required, and others because it is considered that they would be more appropriate as regulations.

The Bill provides the usual powers for the Governor to make such regulations as he deems necessary or expedient for the purposes of the Act, and every endeavour has been made to lay down only the broad principles in the Act and leave the detail to be prescribed by regulation.

First Schedule

The Acts listed in part I of the first schedule are those repealed under clause 3 (a) of the Bill and in addition to the Mining Act, 1904, plus all subsequent amendments, the list includes the Sluicing and Dredging for Gold Act, 1899, and the Mining Tenements (Wartime Exemptions) Act, 1942, both of which are now obsolete.

Part II of this schedule contains amendments which will be necessary to other Acts to give effect to the provisions of this Bill.

Second Schedule

It will be realised that in the repeal of the present Mining Act and the enactment of new legislation, there are many areas where transitioning of certain matters is necessary.

The second schedule sets out how land temporarily reserved from occupation under the old Act and any authority to occupy or right of occupancy that is in force immediately before the commencing date of the new Act shall continue.

In the same way existing goldmining leases, coalmining leases, or mineral leases are deemed to be mining leases granted under the new Act and will remain in force for the unexpired period for which they were granted or renewed under the old Act.

The leases will then expire, but the holders thereof have been given the right in priority to any other person to mark out and apply for a mining privilege in accordance with the new Act.

With regard to mineral claims and dredging claims granted under the old Act, these will remain in force as though the old Act had not been repealed, for a period of two years after the new Act comes into operation and they will then expire.

However, during that two-year period the holder of any such mineral claim or dredging claim may mark out and make application under the new Act for a prospecting license or an exploration license or a mining lease in respect of the single area that is constituted by all the land, the subject of each mineral claim, mineral claims or

dredging claim or dredging claims, and in this event such license or lease shall, subject to the new Act, be granted to him.

Where, however, the holder of a mineral claim or a dredging claim to which the conditions I have just described apply, does not mark out and make application under the new Act for any one of the types of mining privileges I have mentioned, he is not entitled to apply for any one of these mining privileges with respect to the land or any part thereof concerned for a period of three months after the claim ceases, and then only if the land, or the part thereof may be lawfully the subject of one of the mining privileges described.

Under the old Mining Act it was possible to obtain a miner's homestead lease, residential lease, residence area, business area or garden area and it has been considered that grants of this type should be more properly made under the Land Act, 1933.

An example of this would be the Kalgoorlie area where many people have their small gardens.

Under the Bill now before members, these types of titles, provided they are in force immediately before the commencing date of the new Act, will remain in force as though the old Act had not been repealed for a period of five years and will then expire.

However, within that five-year period applications can be made to the Minister for Lands for a grant under the Land Act by way of fee simple or lease of the land comprising the type of areas I have described.

Where any such applications are made, the Minister for Lands is empowered to determine the application on such terms and conditions as he considers necessary.

Any person who holds a miner's right under the old Act and where this right is in force immediately before the commencing date of the new Act, shall continue to do so for the unexpired portion of its term and it shall be deemed to be a miner's right under the new Act.

Machinery areas, tailings areas, quarrying areas, water rights, or licenses to treat tailings granted under the old Act and in force immediately before the commencing date of the new Act, will remain in force subject to and as though the old Act had not been repealed for a period of three years after that date, or will expire on the date on which they would have expired under the old Act.

The holder of any of the mining privileges I have just mentioned may apply under the new Act at any time whilst the old privilege is in force to have granted to him in respect of all or any part of the land to which his privilege relates, a new mining privilege under the new Act of a kind that most closely resembles the mining privilege that he held under the old Act.

Where an application for a mining privilege under the old Act or regulations is pending on the commencing date of the new Act, the applicant has for a period of 90 days the right to lodge in substitution for that application an application for a mining privilege under the new Act that most closely resembles the mining privilege for which he had made application under the old Act.

During the 90-day period in which the applicant may lodge his new application, the land to which the application relates is not open for mining to any person other than the applicant. However, if the application in substitution is not made within the period of 90 days, the old application is deemed to have been withdrawn.

Prospecting areas in existence before the commencing date of the new Act will continue to be in existence for the same period they would have remained in force under the old Act and shall then cease.

With regard to the holders of official positions under the repealed Act, these people have been deemed to be appointed to the corresponding positions under the new Act, except that the Under-Secretary for Mines ceases to be a warden.

The same situation applies with wardens' courts and wardens' offices; that is, if they were in existence immediately before the commencing date of the new Act, they continue to be assigned to the mineral field or district of a mineral field for which they previously held responsibility. However, where a goldfield or a district of a goldfield is involved, that goldfield or that district is deemed to be a mineral field or district of a mineral field.

It will be noticed that in the first schedule, section 235 of the Local Government Act, 1960-1971, is repealed and it therefore becomes necessary to provide under the new Act for people carrying on extractive industries.

A provision has therefore been written in whereby a person lawfully carrying on an extractive industry on any land immediately before the commencing date of the new Act has the right in priority, for a period of two years, to any other person to mark out the land or any portion thereof as a mining privilege.

In explanation "carrying on an extractive industry" means quarrying and excavating for stone, gravel, sand, and other material.

Although the Bill endeavours to cater for all of the transitional matters that can be foreseen, it is more than likely that certain problems have not been covered.

To overcome such difficulties the Bill provides for the Governor by Order-in-Council to make such modifications as may appear necessary to him for preventing anomalies during the period affected by the transition to the new Act from the provisions of the old Act.

In addition the Governor may make such incidental, consequential, and supplementary provisions as may be found necessary or expedient for the purpose of giving full effect to these transitory provisions.

Any modifications or provisions made by the Governor will have the same force and effect as though they were enacted under the new Act.

Third Schedule

The east locations listed in the third schedule to the Bill are those purchased by the Hampton Lands and Railway Syndicate Limited by agreement with the Governor of the Colony of Western Australia in 1890, and which are also the subject of the special Mining on Private Property Act, 1899, whereby the company is authorised to work all the metals in these Crown grants.

This freehold land was accordingly excluded from the provisions of the present Mining Act and the *status quo* has been maintained by a similar exclusion under subclause (6) of clause 30.

Mr. Court: Before you resume your seat, would you explain why the Government announced its intention to allow a free vote on the Bill, and does it apply to the whole Bill or only certain sections?

Mr. MAY: I sought permission of my party or the Government to have this Bill treated as a nonparty measure. I felt it was a measure on which it was far too important to tie anyone down. The thought was expressed in the Press that the idea of its being a nonparty Bill was that trouble was expected from this side. If that had been the case, and it was to have been a party Bill, I would have tied them down in the Caucus. The Bill is strictly a nonparty issue on all provisions, even throughout Committee.

Mr. Court: Another item rather intrigued me. Why did you expressly exclude coal and give notice of your intention to introduce special legislation for it?

Mr. MAY: Because the coal industry requires particular attention we felt that we should exclude it from this Bill in order to get the legislation off the ground. We have given an assurance to the coal industry that we would cater for the coal industry prior to the proclamation of this Bill. Further legislation will be introduced at a later date.

Mr. Court: It is rather odd to exclude it as a mineral. On page 90 you refer to some items deleted because of redundancy. Have you a schedule issued by the Crown Law Department indicating the specific items to be deleted? This would help members considerably in checking one measure against the other.

Mr. MAY: I will obtain this and present it in Committee.

I point out that I have given quite a comprehensive second reading speech, but I felt it was necessary in view of the importance of the Bill. It is my intention to allow as much time as possible before the resumption of the debate to enable members, and also mining interests in the outlying areas, to study the measure fully and suggest any amendments they consider necessary.

If members have any amendments in mind, it would be appreciated if they would place them on the notice paper as early as possible so we can expedite the passage of the Bill through the House. We do not desire that the session extend very far into May if we can possibly help it, but I realise the Deputy Leader of the Opposition, who is taking the adjournment, will probably be away. Members can rest assured that we will give ample time for the measure to be considered fully.

The only other point I wish to raise is that the Mines Department is sending two officers to Parliament House every Wednesday from tomorrow week. They will be located in the Ministers' writing room and any member who requires any information or clarification on the Bill can feel free to interview these officers who were, in the main, responsible for the preparation of this legislation, which I commend to the House.

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

## STAMP ACT AMENDMENT BILL

*Second Reading*

**MR. J. T. TONKIN** (Melville—Treasurer) [8.00 p.m.]: I move—

> That the Bill be now read a second time.

This measure is introduced for three purposes. These are—

(1) To correct deficiencies in the Act.

(2) To repair an omission.

(3) To resolve difficulties in assessing and paying duty on certain insurance policies.

I shall explain each of these proposals in turn. There are two defects which are resulting in a loss of revenue. The first of these concerns insurance policies written outside Western Australia, but covering risks in this State. In 1968 the Act was amended to impose duty on policies of this type. Prior to that year, persons outside Western Australia who were writing policies covering risks in this State were avoiding duty and the State was losing a substantial sum annually because our law imposed no stamp duty on these policies.

When the amendment was enacted, the word "property" was used, and it has now transpired that this is not completely effective, in that it does not extend to loss

of profits, protection, workers' compensation cover, public risk cover, and the like. This deficiency came to light when an Eastern States insurance company asked for a ruling on its liability to pay stamp duty on liability policies as distinct from property risk policies. This company claimed that under our Act liability policies written outside the State were not dutiable.

A detailed examination of the position was then made and both the commissioner and the Crown Law Department agree with the company's contention. This means that where Australia-wide companies write policies outside the State to cover liabilities, as distinct from property risks, in Western Australia, no duty can be legally collected by the State. It is estimated that on current levels of transactions the annual loss of revenue arising from this defect is $100,000 per annum. As, quite clearly, it was intended that both property risk and liability policies should be subject to duty, the Bill now before the House contains provisions to remove the present deficiency in the law.

The second defect concerns stamp duty imposed on securities. In 1963, following a court decision made in England, the stamp duty authorities in this State commenced assessing securities, such as mortgages securing the balance of payment under contracts of sale or agreements, as collateral securities. Under the provisions of our Stamp Act, collateral securities attract only one-fifth of the duty payable on primary securities.

The English case, which was the subject of an appeal to the House of Lords, was decided in favour of the argument that the unpaid balance of a purchase price secured under a contract of sale was, in effect, a primary security, and any mortgages between the same parties following a transfer of the land was a collateral security to the contract of sale.

The Inland Revenue Commissioners quickly realised that this decision could have serious effects on revenue and in the same year, namely, 1963, the Parliament of the United Kingdom amended its stamp duty legislation to overcome this prospective loss by requiring that unless the primary instrument of security had been stamped with the duty levied on primary securities, the collateral instrument would have to be so stamped.

Apparently the amendment to the United Kingdom Act was overlooked here and, therefore, no action was taken in this State. This has resulted in increasing losses to revenue. One recent case was where a large company entered into a building agreement for the erection of certain works. This agreement attracted 25c duty only. Another company then executed a guarantee in favour of the builder securing the amounts payable under the building contract. Normally a guarantee attracts full duty at the rate of 25c per $200, but because of the provisions now in our law, only $25 was payable instead of $125.

In addition to the foregoing, recent events show that what might be described as the "flow-on" from the defect I have described, may well further erode our current revenues. The duty imposed on the discharge of a fully stamped primary security is 10c per $200, whereas the discharge of a collateral security attracts 10c only, irrespective of the amount secured.

For many years it has been the practice of the stamp duty authorities in this State to levy duty on discharges of collateral securities at the *ad valorem* rate of 10c per $200 where there is no fully stamped primary security. This practice has, for the first time, been challenged and the commissioner may possibly lose the appeal. If the decision goes against the commissioner, there will be a further future loss of revenue. It is difficult accurately to assess the loss of revenue arising from these loopholes in the law because statistics of security transactions are not designed to produce this information. However, a sample of security documents indicates that the loss could be of the order of $200,000 per annum. To overcome this loss and to remove the effects of applying a lower rate to some transactions because they involve the use of contracts or agreements, whereas others using transfers and mortgages pay full rates, it is proposed to amend our laws along the lines of the amendment made to the United Kingdom's stamp duty legislation. Accordingly provision for this is made in the Bill.

Mr. Court: I cannot quite follow how it will overcome the interstate problem the Premier is talking about.

Mr. J. T. TONKIN: What was that?

Mr. Court: I cannot quite follow, from the explanation given, how it overcomes the interstate problem you were dealing with earlier.

Mr. J. T. TONKIN: I rely entirely on advice received from the Crown Law Department and the Commissioner of Taxation to the effect that what is proposed in the measure will remedy the defect in the existing law. I must accept that advice, because I am not in a position to contradict it.

Mr. Court: We were in that position on one memorable occasion.

Mr. J. T. TONKIN: I now turn to the omission in our existing law. In 1967 the Stamp Act was amended by conferring discretionary power on the Treasurer to exempt from duty, mortgages, debentures and the like securities given by charitable and similar bodies. This is complementary

to the power he possesses to grant exemption from stamp duty imposed on conveyances.

A typical example would be a charitable institution purchasing property to establish a home for indigent persons, paying part of the purchase price, and securing the balance by mortgaging the property. Under the powers now contained in the Act, the Treasurer can exempt both the transfer and the mortgage. However the Act makes no provision to exempt the discharge of the mortgage when the amount secured has been paid. It seems quite clear the original intention was to empower the Treasurer completely to exempt these worthy institutions from all duties on securities they may provide. Therefore, the Bill contains a provision to repair this omission by granting power to exempt discharges of this type of security.

The final purpose of the measure is to resolve assessing and payment difficulties. Under the current provisions of the Stamp Act, duty is imposed on certain insurance policies at a rate of 5 per cent. of premiums payble. This rate is applied to policies which cover goods being imported into the State.

It is usual for these policies to form part of the documents to be presented by the Western Australian importer to the agent for the supplier when seeking to obtain delivery of the goods. These documents, because of financial arrangements made, are generally passed through banks. Under the existing law it is the duty of the person first receiving the policy in this State to have it stamped within 10 days. In the circumstances I have outlined, these persons are usually banks.

Recently representatives of the associated banks have advised that their members are encountering almost insuperable difficulties in some cases in complying with the law and sought the Government's assistance in overcoming these problems.

In these cases, although the policies show the amount of cover, there are no details of the premium given. Because the insurance companies concerned do not carry on business here and are located overseas, it is virtually impossible to obtain details of the premium.

With the co-operation of the banks, the commissioner has made an investigation into this problem and has concluded that a simple alternative method of stamping will, on average, yield approximately the same amount of annual revenue and will resolve the banks' difficulties.

It is proposed to tax these policies at a rate of 5c per $100 of the amount of cover. In this way a known sum will be used as the tax base. The banks agree with this proposal.

In order to do this it will be necessary to provide power in the law for the commissioner to apply the alternate rate in cases where he is satisfied the premiums cannot be fairly ascertained and to detail the alternate rate in the Act.

The Bill now before members provides accordingly. This concludes my survey of the provisions contained in this Bill. As I stated at the outset, the measure is simply to remedy defects, to protect revenue, correct an omission, and resolve taxpayers' difficulties. I emphasise this: The Bill definitely does not break any new ground. The Opposition is always quick to seize an opportunity to accuse the Government of imposing additional taxation but this measures is definitely not breaking new ground.

Mr. O'Neil: It puts a bit of fertiliser on the old ground.

Mr. J. T. TONKIN: It remedies omissions which I feel certain the Opposition would not have hesitated to remedy if it were still in power.

Mr. Court: Could we just clarify that? Do you mean it does not impose additional tax but it does in fact break new ground in the approach to the problem?

Mr. J. T. TONKIN: It does not break new ground at all. All it does is to ensure that taxation which the previous Government thought it was imposing but did not in fact impose, will be collected. This was the previous Government's intention.

I commend the Bill to members for their support.

Mr. McPharlin: Before you sit down, you said there would be a levy of 5c per $100. What about part of $100—does that attract 5c as well?

Mr. O'Neil: It would be 5c of $100 or part thereof.

Mr. J. T. TONKIN: Yes, $100 or part thereof. I commend the Bill to the House.

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

## ZOOLOGICAL GARDENS BILL

*Second Reading*

**MR. H. D. EVANS** (Warren—Minister for Lands) [8.19 p.m.]: I move—

That the Bill be now read a second time.

The Zoological Gardens Act was assented to on the 28th October, 1898, and it made provision for the granting to trustees, by the Governor, of lands to be used as gardens for zoological and acclimatisation purposes and for public resort and recreation.

An Acclimatisation Committee was formed in 1896 for the purpose of introducing exotic species into the State, a practice which was popular at this time. With the exception of the kookaburra and two species of foreign doves, the project mercifully failed.

However, in 1897 the committee, with the support of Sir John Forrest, then Premier of the State, promoted the idea of establishing a zoo, and this task was accomplished in 1898. Land and finance was granted and, as previously mentioned, an Act of Parliament enabled the appointment of the Acclimatisation Committee as the Board of Management.

The Great War and the years of depression severely affected the functioning of the zoo, and in 1932 the State Gardens Board—which has now become the National Parks Board—took control of the zoo. This state of affairs persisted until in recent years the zoo's administration was segregated from that of the National Parks Board.

The zoo has an increasing appeal to the public, both adult and juvenile, and admissions during the past five years have increased by 58 per cent. Its potential as an educational resource is quite considerable, whilst in the field of conservation it has engendered an interest in endangered fauna and has also furthered the propagation of rare species in captivity. The shortnecked tortoise, for instance, is an interesting example of the work carried out in this regard.

Returning to the Bill now before the House, the existing legislation provides that the zoological gardens be under the control of the management of six members, known as the Acclimatisation Committee, three of whom shall be trustees for the time being, and three shall be appointed from time to time by the Governor.

When in 1969 the Acclimatisation Committee entered into negotiations to purchase additional land at the corner of Mill Point Road and Onslow Street, South Perth, doubt was expressed as to whether the trustees had the necessary power under the existing Act to acquire property by purchase.

In an effort to correct the situation, papers were submitted to Executive Council in 1969 resulting in the issue of a proclamation constituting members of the Acclimatisation Committee as a body corporate under section 3 of the Parks and Reserves Act, and the board to be known as the Zoological Gardens Board.

Since then, however, the Crown Law Department has expressed the opinion that there was no power under the Parks and Reserves Act to constitute the Acclimatisation Committee appointed under the Zoological Gardens Act a body corporate.

As a result of this opinion and to enable the Acclimatisation Committee more effectively to control its operations, the measure before the House—to be retroactive to the date of the proclamation to which I have previously referred—has been introduced to amend the Zoological Gardens Act to give effect to renaming the committee the Zoological Gardens Board and to appointing the board a body corporate, with perpetual succession and a common seal with power to sue and be sued in its corporate name. Furthermore, it would confer on the board the necessary wider powers similar to those outlined in the Parks and Reserves Act of 1895.

As an amending Bill to give effect to these requirements would be almost as long as the principal Act and hence be more difficult to interpret, the Bill proposes to repeal the 1898 Act and replace it with a new Act.

Should the Bill receive the approval of Parliament, all the powers, functions, duties, liabilities, and lands vested in the trustees will become those of the board and the lands will be vested in the board.

I commend the Bill to the House.

Debate adjourned, on motion by Mr. Grayden.

## LOCAL GOVERNMENT ACT AMENDMENT BILL

*Second Reading*

**MR. H. D. EVANS** (Warren—Minister for Agriculture) [8.25 p.m.]: I move—

> That the Bill be now read a second time.

It would have been preferable to have Orders of the Day Nos. 4 and 5 reversed as this Bill now before us is consequential upon the Plant Diseases Act Amendment Bill.

Mr. O'Connor: Bad management again.

Mr. H. D. EVANS: However, if members will be tolerant I do not think any serious difficulty will be encountered in dealing with this measure first.

I would point out that it is necessary to make provision in the Local Government Act to deal with the community needs of fruit-fly baiting schemes, and it is logical that local government authorities would be the appropriate bodies for the purpose of operating such schemes.

Though many shire councils are taking an active part in fruit-fly baiting schemes, there is a need for greater responsibility in their administration and organisation in this field.

Effective fruit-fly control is determined upon regular and efficient baiting which may be achieved only by the co-operation of tree owners and close supervision of operations.

As a basis for the transfer of fruit-fly baiting schemes to municipal councils, the following provisions are made:—

(1) Municipal councils to be empowered to rate all properties and/or charge baiting fees for the purpose of controlling fruit fly.

(2) The decision to introduce a baiting scheme rests with the local authority except in districts where fruit-fly baiting schemes have already been introduced as a result of a poll of owners or occupiers of registered orchards. In these circumstances the maintenance of the schemes shall be mandatory but subject to appeal to the Minister for Local Government that such a scheme is no longer warranted.

(3) Local authorities to be empowered to bait all or any gardens or orchards at their discretion.

(4) A Government subsidy on the basis of 50c per property be given to local government authorities which introduce baiting schemes during the financial years 1971-72 and 1972-73 and that this policy then be reviewed.

The Department of Agriculture will continue its activities in fruit-fly control and research. It will cease to conduct polls for the introduction of schemes and appointment of baiting committees but will actively police the mandatory measures for fruit-fly control. The department will provide local government authorities with technical advice on the establishment of schemes and other matters relating to the control of fruit fly. I commend this measure to the House.

Debate adjourned, on motion by Mr. Nalder.

*Message: Appropriations*

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

## PLANT DISEASES ACT AMENDMENT BILL

*Second Reading*

**MR. H. D. EVANS** (Warren—Minister for Agriculture) [8.30 p.m.]: This is a measure the introduction of which was delayed for some months last year by the unfortunate prorogation of Parliament, but at this juncture I move—

That the Bill be now read a second time.

The Bill relates to the introduction and administraton of fruit-fly baiting schemes and registration of orchards. Complementary Bills—namely, the amendment to the Local Government Act and the repeal of the Plant Diseases (Registration Fees) Act—will also be introduced. Of course, the Local Government Amendment Bill was introduced just a moment ago.

It is intended that the decision to introduce baiting schemes should be the prerogative of municipal councils rather than as the result of polls conducted by the Government and subsequent appointment of committees by the Minister.

The provisions requiring the registration of backyard orchards will be repealed and provision will be made for the baiting of all host plants and habitats of fruit fly instead of fruit trees only.

It is not intended that the amending legislation should abolish existing schemes which have been introduced on the basis of a majority poll of owners/occupiers but it will enable municipal councils, at their judgment, to seek the Minister for Local Government's approval for their discontinuance.

Existing provisions for the establishment of compulsory fruit-fly baiting schemes were adopted in 1946 and schemes initially covered only commercial fruit-growing areas and were directly aimed at protecting the commercial orchardist from inroads of the pest from adjacent urban and neglected properties. Since this time, over the past 26 years, the position has changed considerably as a result of the spread of baiting schemes throughout the southern part of the State. Schemes have been established as far afield as Esperance, Kalgoorlie, and Carnarvon and now encompass mainly country towns and urban areas not related to commercial fruit-growing districts.

Furthermore, the introduction of newer insecticides has enabled the commercial fruit grower effectively to control fruit fly on his property. In short, fruit-fly baiting schemes have now become more of a community service to the householder rather than a requirement for commercial fruit production.

Although the responsibility for fruit-fly control rests with the owner or occupier of the property concerned it is recognised that baiting, which is only one phase of fruit-fly control, can be carried out more effectively and will give better results if it is conducted on an organised community basis.

The other phase—namely, attention to orchard hygiene—will always depend upon the owner/occupier's attitude and effort. Although spectacular control of fruit fly has been achieved in a high proportion of country baiting schemes problems have occurred in achieving control in some schemes, particularly in the metropolitan area. These problems are related to administration, provision of suitable facilities, and supervision of baiting. Centralised collection of baiting charges or rates will effect economy.

Introduction of schemes based on community decision and participation is more likely to engender public acceptance and co-operation of local residents.

To improve the situation it would seem appropriate for municipal authorities to accept greater responsibility in regard to these aspects as well as the decision to introduce baiting on an organised scale.

The basis now recommended does not lessen Government financial commitment, its technical contribution, nor its responsibility for the enforcement of fruit-fly control measures on the owners or occupiers of properties. The measures are intended to facilitate the introduction and administration of organised baiting and provide a sounder basis for further expansion of urban schemes.

The Government has considered both the question of eradication of fruit fly, which is not feasible under Western Australian conditions, and the possibility of the department itself undertaking baiting. The latter has been rejected on the grounds that the level of community and individual participation essential to fruit-fly control is comparable with that necessary to control other household pests such as flies, mosquitoes, etc.

The proposals contained in this Bill do not entail compulsion of municipal councils to implement new fruit-fly baiting schemes. Moreover, it is not sought to hold municipalities responsible for fruit-fly control, but only for the organisation of a programme of baiting where they consider this is a need of the local community. The owner or occupier of the property on which trees, vines, etc., are growing has always been the responsible party for the control of fruit fly and any step to change this responsibility would be retrograde. The measures are introduced to improve fruit-fly control by facilitating the introduction and management of baiting schemes. I commend the Bill to the House.

Mr. Nalder: Before you sit down, does this legislation intend to replace the present system completely?

Mr. H. D. EVANS: Yes, that is what is intended.

Debate adjourned, on motion by Mr. Nalder.

## PLANT DISEASES (REGISTRATION FEES) ACT REPEAL BILL

*Second Reading*

**MR. H. D. EVANS** (Warren—Minister for Agriculture) [8.40 p.m.]: I move—

> That the Bill be now read a second time.

The Bill before the House to repeal the Plant Diseases (Registration Fees) Act, 1941-1958, proposes to give effect to the deletion of the provision relating to backyard orchard registrations.

The other remaining provisions in this Act, not related to backyard orchard registration, do not justify its retention and have been more conveniently incorporated in the Plant Diseases Act Amendment Bill.

The subject of the discontinuance of backyard orchard registrations has been explained already in introducing the Bill for an Act to amend the Plant Diseases Act. I commend the measure to the House.

Debate adjourned, on motion by Mr. Nalder.

## CONSTRUCTION SAFETY BILL

*Second Reading*

**MR. TAYLOR** (Cockburn—Minister for Labour) [8.42 p.m.]: I think two comments are necessary before I commence my second reading speech on this Bill. Firstly, this measure was prepared during the time of the previous Government, and was completed then. The Bill, as now introduced, has not had the change of a single word since it was prepared. The second point I would make is an explanation, in part, of the delay in bringing the measure to the House. In the same way as another measure that was introduced earlier this evening this Bill was to have been introduced last year, but because Parliament was prorogued it was delayed. However, it is now before the House. I move—

> That the Bill be now read a second time.

The Construction Safety Bill is designed to meet change and modern trends in the building construction industry. The Bill is a safety measure for the protection of workers in the construction industry as well as for the protection of the general public.

The change from the one or two-storey building of the "twenties" to the multi-storey creations of the "seventies" is a span of half a century. If the legislators of today can create a Bill which will withstand the test of even the next 10 years we will do a great job. This Bill will bring us abreast of the times.

The measure is a completely new one and is to replace the present Inspection of Scaffolding Act of 1924. With the advent of new building techniques, subcontract work, and the like, there has been so much change as to make it difficult to align a 1924 Act with 1972 building methods.

Concern has been expressed at the appropriate industry levels on the need to update the legislation and following a meeting with representatives of the Building Workers Industrial Union, a widely representative committee was convened to examine the Act and make recommendations thereon.

The committee appointed was represented on the employer side by the Master Builders Association, civil engineering contractors, Master Painters Association, and the Chamber of Manufactures.

The union representation was from the Building Workers Industrial Union, builders labourers, and the engineering unions. An observer from the Industrial Division of the Industrial Foundation for Accident Prevention also attended meetings.

The committee had many long meetings over a period of 18 months and had a most exacting task. The Government is most appreciative to all for the individual contributions made.

The committee decided that it would be almost an impossible task to amend the existing Inspection of Scaffolding Act, and proceeded to draft a completely new Act. This is the creation of that very diligent and representative committee.

The recommendations of the committee were finally considered and approved by the Minister for Labour's Industrial Safety Committee under the chairmanship of the previous Minister for Labour, The Hon. D. H. O'Neil. I herewith acknowledge that and thank him for his work on this legislation.

The Bill truly represents the recommendations made by the committee in conjunction with the specialist advice of officers of the Scaffolding Branch of the Department of Labour.

The transfer of control of the Inspection of Machinery Branch from the Mines Department to the Department of Labour in May, 1969, brought the administration of machinery inspection into co-ordination with inspection in the construction industry.

The one co-ordinated authority in the one department is able more adequately to control the safety of workmen on cranes, hoists, and lifting gear on construction sites, whether they be in St. George's Terrace or at Mt. Newman, Paraburdoo, Kambalda, or the Ord.

In arriving at recommendations, the committee studied construction safety legislation of other States of Australia as well as a number of overseas countries.

The desirability for uniformity of Australian legislation was kept well in mind so as to assist building contractors who in many cases are carrying out contracts in various States at the same time.

Many salient aspects of the existing Inspection of Scaffolding Act have been retained or modified to the extent required to fit into the modern aspects of the construction industry.

While I do not propose to traverse all clauses of the Bill, members will obviously appreciate that there has been a change in the title of the Act.

Building construction goes far beyond just inspection of scaffolding and gear. The adoption of the new title in the Bill follows that of South Australia, Queensland, New Zealand, and Canada. Other Australian States are expected to use the same title when they rewrite their Statutes.

The definition of "main contractor" seeks to clarify the situation on construction sites where multiple subcontractors are using construction equipment and employing labour outside the control of the principal or main contractor. The new definition will provide for greater control of safety measures on the construction site.

"Subcontractor" is also defined so that his obligations and responsibilities can also be expressed in the Act.

The definition of "workmen" in clause 6 extends to persons working for reward whether as employees, employers, main contractors, or subcontractors—but excludes owners—so that all the protective measures of the Act can be applied widely to persons on site.

The Bill provides that the expression "work to which this Act applies" includes—

> construction work—broadly defined in clause 15;
>
> excavation work over 5 feet in depth; compressed air work;
>
> erection or demolition of any hoisting appliance; or
>
> scaffolding on which workmen are required to work.

Although a strengthening of safety and welfare provisions is contemplated it is not intended to overlap or duplicate safety and welfare provisions which are already fixed by other authorities or in awards.

For example, clause 7 of the Construction Safety Bill will not apply to the construction or carrying out of work about a mine, coalmine, petroleum well, or petroleum pipeline for which relevant legislation exists under Mines Department control, unless the Minister for Labour and the Minister for Mines by agreement in writing jointly declare that the Bill or part of it should apply to the whole or part of the construction work thereon.

When such agreement is reached, surface—not underground—construction work on a mine done by outside contractors, as deemed necessary, can have applied to it relevant provisions of the Construction Safety Bill. When this applies, the Mines Regulation Act, etc., will not apply to the same work. Notification will be given to a contractor before work commences as to which Act applies to the work concerned.

Clause 16 of the Bill, similar to the present provision in the Act, provides that prescribed construction work likely to be dangerous to workmen employed thereon is to be notified by the main contractor to the Chief Inspector of Scaffolding at least 24 hours before commencement and a fee paid. This will continue to allow departmental inspectors to inspect the work from commencement of the job.

The committee unanimously recommended the formulation of a construction safety advisory board with representation from the employer and employee organisations as well as the Department of Labour to exercise a watching brief over measures to secure the safety and welfare of employees in the industry, as well as the general public.

This board would meet at frequent intervals and make recommendations for amending legislation to meet changing or new circumstances along particular lines set down in clause 20.

The Bill places definite obligations on an owner, main contractor, subcontractor, and workmen. Past experience has shown a difficulty in fixing responsibility for safety on site. Trends in the building industry in recent years have accentuated the problem.

A paramount need to have the main contractor responsible for overall safety on site and for subcontractors, in turn, to shoulder the share of responsibility for safety on work done by them has been covered by clause 23 of the Bill.

Whereas in past years a contractor carried out the majority of work using his own employees and readily accepted responsibility for safety, the trend to subcontracting has often led to a collection of more than 10 and up to 30 subcontractors operating on a major project. This has relieved a main contractor of many of his obligations under the current Inspection of Scaffolding Act.

It is not difficult to imagine the task of an inspector at present, especially in multi-storey buildings and large projects, in pinpointing responsibility when confusion, argument, and disregard of instructions occur in safety matters amongst those operating on the job.

Provision is made in clause 24 for protective equipment for workmen. An obligation is imposed on workmen to wear and use such equipment as provided and to conform to safety requirements on site, and not to act in such a way as to endanger their own safety or that of another person.

Clause 26 provides that where any other Act, regulation, by-law or award requires the provision of amenities on site by a main contractor, the chief inspector shall report any contravention to the appropriate officer under the Act, etc., concerned. Therefore relevant action can then be taken by that authority.

The amenities referred to are included in clause 26; that is—

(a) drinking water;
(b) washing facilities;
(c) accommodation for meals, clothing and tools;
(d) sanitary conveniences;
(e) first aid equipment;
(f) appliances for prevention and extinction of fire;
(g) ventilation.

If sufficient requirements in respect of those amenities do not exist or will not be made under the control of other authorities, they can be made under the regulations to the Construction Safety Act if deemed necessary.

In clause 27 the safe use of explosive-powered tools, gear, and power-driven equipment is provided for, as well as the classes of licenses and certificates which will be issued to workers to enable them to carry out certain types of work performed in this industry.

Under clause 28, inspectors will continue to be given powers as before to issue directions to contractors in order to prevent accidents and ensure compliance with safety procedures or order workmen to cease work until work is made safe where danger to life and limb exists. In accordance with clause 30 those powers will now be the subject of delegation by the chief inspector.

The appointment of inspectors of other branches of the department under clause 9 (5) (b) as construction safety inspectors has been included to assist in detecting unsafe or unsatisfactory practices when on a job in connection with other matters which are their main concern. These inspectors will have only very limited powers. They will not be delegated powers under the Bill to give directions or orders in construction work which is outside their own specialised field.

Other general powers and duties contained in clause 11 which exist under the Inspection of Scaffolding Act are still required and are still in the Bill.

A right of appeal exists under the Inspection of Scaffolding Act to a magistrate against a direction or order of an inspector. The committee was of the opinion that a right of appeal should continue to exist.

However, the committee considered in many cases it would be preferable to have a person with technical or practical knowledge to understand the implications involved and hear the appeal.

Provision is made in the Bill for a single arbitrator to be appointed if requested by the parties concerned. A single arbitrator, if acceptable to both parties, could hear appeals expeditiously and obviate delays in construction work when a job is proceeding, or where the circumstances or location make it more convenient and desirable for a technically qualified man on the spot to deal with the situation.

Alternatively the Bill provides for a board of reference of three members to be appointed. Clause 17 (1) is written into the proposed Act as a discretionary right of the Minister to constitute, or appoint boards of reference, or single arbitrators;

but clause 18 (3) makes it mandatory for the Minister to refer an appeal to a board of reference or arbitrator. The expenses in hearing an appeal will be a charge against the Department of Labour which is the administering department.

Any further appeal shall lie on a question of law only from any decision by a board of reference or arbitrator, and such further appeal would be heard by a magistrate in the local court under clause 17 (5).

Contractors will be given the opportunity under clause 34 to seek prior approval of the chief inspector for work methods, gear or equipment, etc., to be sanctioned before the job commences. This will provide for less interruption once a job is under way.

Substantial increases have been provided for special penalties and general penalties under clause 44 (2) and for breaches of the regulations under clause 46 (2) (b) of the Bill.

Clause 2 states the Act shall come into operation on a date to be fixed by proclamation. It is not intended to proclaim the Act until the regulations are ready to operate.

The regulations are in the course of preparation, and outside bodies represented on the previous committee will be given the opportunity to scrutinise the draft and make suggestions in an endeavour to obtain a more satisfactory working basis.

This Bill provides guidelines for safe working practices and legislates for the welfare of construction workers and the general public. It offers a more advanced and improved approach in administering safety in the construction industry.

I believe this Bill to be a very forward-looking piece of legislation, and as it has been thoroughly prepared by a tripartite group I am confident it will commend itself to the House because it concerns the safety, health, and welfare of workmen, and it includes the safety of the general public.

We owe a Bill of this nature to the industry, the workmen, and the public. I commend the Bill to the House.

Debate adjourned, on motion by Mr. O'Neil.

## CRIMINAL CODE AMENDMENT BILL

*Second Reading*

Debate resumed from the 30th March.

**MR. MENSAROS** (Floreat) [8.57 p.m.]: At the outset I would like to say—and perhaps in so doing put you, Mr. Speaker, in the picture—that the length of study and research which was needed to consider this Bill and the two complementary measures will not be reflected in the length of my speech in the second reading debate.

As a result of the study I have made I would like to make two preliminary remarks. Firstly, I am grateful to the Attorney-General for mentioning that the Law Reform Committee had looked into these matters, or at least into the main matters contained in the Bill; he even said who were the members of this committee, and referred to the fact there was a working paper.

On the other hand I do not think it would have caused the Attorney-General much difficulty had he pointed out that he accepted the recommendations of this committee *in toto;* or that he accepted a part of them and rejected other parts. If he had said so he could have also given reasons as to why he accepted some of the recommendations and rejected others.

Equally, it would have facilitated our work had he given us access to this working paper. As it happened I received a copy, but only this afternoon. Of course, I did not have time to study it properly, or to establish whether the recommendations contained in this working paper were accepted or only partly accepted.

The second preliminary remark I would like to make is, with all due respect to the Minister, connected with his second reading speech. Of course, that speech of the Minister does express the general tenor of the amendments. It possibly complies with parliamentary customs; yet, if one wants to go to the bottom of things and make a thorough study, it is fairly difficult to relate the comments in his second reading speech to the relevant clauses.

Indeed, one had to make an index of the paragraphs in the second reading speech and relate those paragraph to the clauses in the Bill and the sections of the Act which are to be amended, or omitted, in order to assess all the circumstances.

The SPEAKER: Would the honourable member raise his voice a little?

Mr. MENSAROS: Yes, Mr. Speaker. Even if it is claimed that a measure such as the one now before us is a Committee Bill, we all know that no Minister will speak to each clause during the Committee stage unless he is challenged. It would be very difficult to construe amendments and put them immediately at that stage, so I would be very grateful to the Attorney-General if he would be a little more comprehensive in the future when he introduces a complicated piece of legislation such as that now before us.

As the Attorney-General said, the main provision of this Bill to amend the Criminal Code is to alter the procedure. It extends the type of offences which can be tried, summarily, either at the choice of the court or the election of the person charged with some indictable offence. In making this provision the Bill replaces the justices with a court of petty sessions, which means that justices will be replaced

by a magistrate. To this extent clause 3 of the Bill refers to section 1 of the Code, and clause 4 refers to section 3 of the Code.

The Attorney-General did not say that not all magistrates have legal training and, as a consequence, untrained justices will not be replaced by trained magistrates in all cases. It is interesting to observe that in one of the complementary Bills—I think it is the Child Welfare Act Amendment Bill—the wording of the Minister's second-reading speech does not refer to "magistrates" but to "stipendiary magistrates." However, the Bill now before us refers only to a magistrate.

I do not make that observation in a critical sense; I am only stating and clarifying the fact that although a magistrate will take the place of justices, the magistrate could very well be someone who underwent an examination, but is not a trained lawyer. I think these remarks are pertinent because we have to consider that justice is based on the rule that the punishment has to fit the crime.

We always have the situation where the Executive Council can depart from the rules, if it thinks fit, and shorten certain sentences or change certain verdicts brought down by courts and, indeed, those brought down by judges.

The procedural changes will also mean changes in the material law inasmuch as in all those cases where summary trial and verdict is possible the penalty for the offence—if advantage is taken of a summary trial—is lower than if the proceedings were through indictment. In most cases it appears that the maximum sentence is six months or a fine, usually of $500.

The maximum penalty of six months or a $500 fine replaces, in some cases, maximum sentences as high as 14 years' imprisonment. I will admit that proceedings will be speeded up and the course of justice will be less expensive, and that is very laudable and, indeed, has to praised and supported. However, it is questionable in my mind that in some cases with which this Bill deals one can support the resultant relaxation of the penalties for offences which are increasing from year to year and, almost, from day to day.

I have placed a question on tomorrow's notice paper but the reply will be too late for the purpose for which I required it. However, I think members, generally, will admit that the number of cases of breaking and entering, connected with stealing from dwelling houses and other buildings, has increased tremendously in latter years. For that reason I think it is questionable whether or not such offences should come under the provisions of this Bill even though there are certain changes in the structure of these offences. I will deal with this point in detail at a later stage.

It is very doubtful whether this is something which society really wants as it will be possible that the offences to which I have referred will carry a lighter punishment. It is hard to reconcile this provision in the Bill with the remarks made by the Attorney-General. I support 100 per cent. what he said—that it is necessary to keep the laws relating to the protection of property and life under constant review. The Attorney-General also said that some difficulty had been experienced in obtaining convictions against adult offenders who procured or induced children to commit acts of gross indecency.

If these offences are increasing in number the fitting thing to do, I think, is to increase rather than decrease the penalties which the offences carry. The criminal law, to my mind, is almost equal to history. We can go back 2,000 or 3,000 years and we sometimes find evidence in historical criminal laws of what occurred at that time. Indeed, it has been stated that relics of Statutes, like Hamurabi's, give us a mirror of the society which existed at that time. We might think it was very cruel that somebody had his right hand cut off because he stole. Such an action reflects the fact that the society of that time was indignant with the increasing number of offences of that kind.

I refer particularly to cases of assault, housebreaking, and like offences, and feel that the extension of summarily proceeding to these cases is not justified and is not what society wants.

As I said previously, I did not have an opportunity to study the working paper; I have only glanced at it. I could be corrected, but I did not see any recommendation in regard to assault. I say again that we will have the situation where the penalty, as a result of a summary trial, can be reduced from 14 years to six months in some cases, and from three years to six months or a fine of $500 in other cases.

In coming to the details of the Bill, after studying it clause by clause, I cannot help but point out that the long title is not quite correct. Incidentally I do not know the reason for the inclusion of all this detail in the long title, but I suspect it is to prevent another place from trying to make amendments to sections other than those specifically mentioned. In any event, the long title is not quite correct in its description of the sections to be amended. For instance there is an amendment to section 322, but this is not mentioned in the long title. As others are mentioned I suppose that section should have been too.

Mr. Court: I will say it should be.

Mr. MENSAROS: Section 485 is mentioned in the long title as one to which amendment is proposed, but I cannot see any further reference to it in the Bill.

Incidentally I think there should have been some amendement to this section, but this is a different question to which I shall refer later. Also, section 486 is to be amended but that is not mentioned in the long title. This is not the occasion to put forward amendments, but I intend to do so later on.

I may be wrong in my contention, and perhaps the Attorney-General will advise me, but I feel that, as a result of amending certain sections, the description of those sections in the schedule to the Criminal Code should also be amended. I refer, for example, to section 403 which deals with breaking into buildings and committing crime. This is the description which occurs in the schedule to the Criminal Code, where every section is mentioned separately. As a result of the amending measure, section 403 will be amended and the word "crime" will be replaced by the word "offence"; in other words the marginal note will read, "breaking into buildings and committing an offence." I agree with this wording but I think perhaps the schedule should be amended as well.

Mr. T. D. Evans: Is the honourable member referring to the marginal note at the side of the section?

Mr. MENSAROS: I am referring to the schedule to the Criminal Code.

Mr. T. D. Evans: The marginal note is not part of the legislative content at all.

Mr. MENSAROS: I am referring to the schedule to appendix B and to schedules to the Criminal Code which start at page 7 and go on for several pages. I think the draftsman of this measure must have been different from the one who drafted the Child Welfare Act Amendment Bill; because in the latter measure, the consequent alterations are proposed when a section is to be altered. In the measure before us both section 403 and section 183 seem to require consequential amendment. Section 183 refers to the indecent treatment of boys under 14. If the measure becomes law the wording will be, "indecent treatment of children under 14" because the word "child" in the section will be substituted for the word "boy." Perhaps this is pedantry, but if we legislate and the measure is printed as an Act of Parliament the schedule should be changed accordingly.

I should like to proceed further and I think I am quite entitled to do so because clause 1 states that the Code means the Criminal Code, and it talks about the schedule as well. Clauses 2 to 6 are machinery ones and express the main procedural aim of the measure. Therefore, there cannot be any objection to them if we accept the whole object of the Bill. Although I do not accept it *in toto* I can agree with and accept the general principle.

Clauses 7 and 8 are outside this general principle and deal with the indecent treatment of children. I think the amendment contained in clause 7, which deals with the indecent treatment of boys under 14, is quite laudable and should be supported, because it will extend the section to include not only the person who takes an active part but also the one who takes a passive part. As the Attorney-General explained, it has been reasonably hard to arrive at convictions in these cases because a semi-assault more or less had to be proved. Without stretching the imagination too far it is easy to appreciate that some indecency could result by a person inciting a child to active behaviour with another person or with the person himself, with the latter being the passive agent.

Clause 9 proposes to introduce a new provision to the measure, as the Attorney-General explained at page 11 of his second reading speech notes. The provision concerns unlawful homicide by the negligent use or management of a vehicle. My first question in relation to this clause is that I cannot find any definition of "vehicle." I think it would be tidier for a definition to be given. It could include motor vehicles, bicycles, tractors, and the like. I feel that the vehicles should be stipulated. I notice, for example, that an aeroplane is defined, but where does a helicopter come in?

My second query—and here I am not sure whether I am right—is this: If this proposed new section includes motor vehicles, should it or should it not be extended to include other apparatus or devices? I imagine that not only the negligent use and operation of a motor vehicle can cause death but also the negligent use and operation of a crane, or any other device, can cause it. It might be argued that this should constitute a separate offence, but because this provision has been included in the Bill—I am referring to the proposed repeal and re-enactment of section 277—perhaps some other dangerous machinery or devices besides motor vehicles could have been included.

My other thought in view of the proposed amendment to section 277, is whether we should amend section 595. Where the offence looks deliberate, even if it is in connection with a vehicle, a person could be charged with wilful murder or murder and then convicted according to section 277 if the weapon is a vehicle. Vehicles have been brought into proposed section 277 and, in consequence, the same principles would apply as apply to any other manslaughter or unlawful homicide charge at the present time.

The purpose of clause 10 is to repeal section 289 and this is something which I think is perhaps overdue. Attempted suicide as an offence has had some religious overtones and of course reflected the thinking of people of several generations

ago. When I say "religious overtones" I mean that on a question of religion intention is emphasised more than the actual result. If we look at the Criminal Code I think the intention in this section could have caused difficulty in the case of prosecutions. If we look at the definition in section 4 of the Code, we can easily construe that if somebody intended to commit suicide with sleeping pills, took two, and fell asleep, according to section 4 of the Criminal Code, he could have been charged with attempted suicide, which is rather ridiculous.

In any event, we have no objection. We support this clause of the Bill, which, if anything, was overdue.

I think I have already dealt with clause 11. The only change is that "the use and management of a vehicle" becomes "the use or management of a vehicle," which again is quite acceptable because it makes it easier to convict any accused negligent person. The two different actions do not have to be proved cumulatively; proof is required only of one or the other. I agree with the Attorney-General that it is what society wants in regard to offences in connection with a vehicle.

I do not think clauses 12 to 15 need a great deal of mention because they merely give effect to the main aim of the whole Bill, which is procedural.

Clause 16 is fairly important. I referred to this earlier. This clause intends to amend section 317 dealing with assault causing bodily harm. In this case the offence can be dealt with summarily according to the election of the person charged. We must bear in mind that in some cases the procedure is the other way around; that is, the court decides whether the accused should be tried summarily, and the person accused or charged can object that he wants to be tried on indictment by a judge and jury. In this case the process is reversed and perhaps made easier for the person charged because he can elect to be tried summarily.

I object to this clause because I am of the opinion that we will make it possible for a lighter penalty to be imposed by using summary trial. A person who is in the habit of assaulting people could easily get out of it by electing to be tried summarily—although the court has its say first—and he would therefore get away with a much lighter penalty for this offence, perhaps with only a fine; whereas according to the present section he would be liable to imprisonment for three years. I feel we would almost invite criminals to commit this offence and get away with it much more easily. I noted that *The West Australian* newspaper commented on this matter in an editorial, although from a slightly different point of view.

Clause 17 is another procedural matter and relates to section 369 of the Act. It extends the summary jurisdiction to trivial cases of defamation. There is not a great deal of objection to this. I think it can be accepted, although some people would have some doubt whether we should deal very lightly even with minor cases of defamation.

The other important principles are included in clauses 18 and 19. I wholeheartedly agree with the provisions of clause 18 because they actually amount to the fact that housebreaking, entering, and like offences stand in the same category if a person commits or intends to commit an offence only—not necessarily a crime. The hierarchy of offences being crimes, misdemeanours, and minor offences, the use of the word "offence" makes the provisions harsher because a person who entered a building would have the intention of committing an offence, which is not a crime; whereas under the present provisions he would get away with this and these provisions would not apply. Now, he comes under these provisions even for the smallest offence he commits or intends to commit in connection with housebreaking.

However, for the very same reason, I cannot agree to the provisions of clause 19. Clause 19 provides that in cases of breaking into buildings and either committing or intending to commit an offence, if certain additional conditions prevail the accused person could elect to be tried summarily. As I said, despite these certain conditions, with this provision we again invite people to commit certain offences because they will get off much more easily. In the case of section 403, a person could get off with six months' imprisonment or a $500 fine instead of 14 years' imprisonment.

There are other things in section 19 which I cannot quite comprehend, and I would be grateful if the Attorney-General would lend his ear to them. First of all, I cannot quite understand the grammar in a whole sentence, and I have a suspicion that two lines have been omitted on page 7 of the Bill. If we follow this, from line 7 it reads—

> . . . the Court, having regard to the nature and particulars of the offence and to such particulars of the circumstances relating to the charge as he—

I think "he" should read "the Court." It continues—

> —may require from the prosecutor and . . . the charge may be dealt with summarily . . .

There is no verb in this sentence and I think it should read—

> . . . and if the Court considers that the charge can be adequately dealt with summarily then the charge may be dealt with . . .

This is the same wording as in the previous clause, so I think this is a printing error which needs to be corrected.

Apart from that, although paragraphs (a) and (b) place conditions on the previous offences in sections 403, 404, and 407 which make it possible for the offender to be tried summarily, I do not agree to those conditions, even though they make the crime different. I cannot follow the words "if . . . there is no allegation that the person used or offered violence." Who would make the allegation? Would it be only the prosecution? Could the allegation be made during the proceedings? I do not think it could because once the proceedings go on summarily there is no option to go to the court and jury.

The other question I have is: Why is it "used or offered violence"? I think it would be much more fitting if it said "was in possession of" the weapons which are enumerated.

According to the proposed wording the person charged must have used the firearm or the offensive weapon. He would only have used it if he had had the opportunity, or from his point of view, the necessity to use it. We do not want to give a person such as this the idea that he can keep a pocketful of these offensive devices and if he does not encounter the necessity to use them he can get away with it. For us to accept the provisions of this clause it should read, "If the person is in possession of the firearm."

I can also think of other possibilities because the clause also states, "or any explosive." I realise that an explosive is a potentially aggressive and dangerous weapon or a weapon which can cause harm to other people. If we are thinking in terms of damage to property, an explosive is not necessary to break into a safe. An electric torch or welding device can be used. I am not quite sure of this wording because perhaps the emphasis is only on the criminal being dangerous.

I emphasise again that a very important principle is involved in this clause. Even if the offence is concerned with a maximum value of $500 in regard to the property stolen, we should not give the benefit to the criminal to be tried summarily. I am not being facetious when I say a person could break into a house and steal only $400 or $450 worth of property but repeat the offence again and again and still be tried summarily. I am not talking without experience as my property has been broken into three times by the same person. This can happen and we should not encourage these people.

I do not raise any objection to clauses 20 to 30. I will not waste the time of the House by debating them at length. These, clauses deal with indictable offences for which a person can be tried summarily. Any interested members can study these clauses but I feel there is no objection to extending the field in these cases.

I have a question for the Attorney-General in connection with clause 31. This is a rather technical clause. The new subsection (7) of section 586 appears to be a general one. It does not refer to stealing as do the other subsections in this section.

The SPEAKER: There is too much audible conversation.

Mr. MENSAROS: My question is: Would it not be more appropriate to add this subsection to section 585 which deals generally with these offences? Perhaps the Attorney-General might look at this with a view to including this new subsection in section 585, as section 586 contains quite specific conditions.

I have no objection to clause 32. This is machinery to extend the procedure.

Clause 33 extends the type of offences in connection with property which can draw conviction if it is established by the evidence during the proceedings that the person has committed any of these offences in respect of the same property. The extension relates to various offences, mainly to wilful false promise or partly by false pretence and partly by wilful false promise in connection with crimes against properties.

Clauses 34 to 36 are again machinery amendments.

Clause 37 increases the amount of compensation to the person who has been aggrieved by the offence. At present the amounts in some cases are $50 and in other cases $200. Now this will become $500.

This concludes the examination of the Bill. I intend to put some amendments on the notice paper. I will do this tonight or tomorrow to suit the Attorney-General's convenience.

The SPEAKER: There is too much audible conversation.

Mr. MENSAROS: Before resuming my seat I would like to emphasise that our main objection is to the extension of these provisions for summary trial to offences which are increasing in numbers. We should give no encouragement to criminals; in fact, we should act the other way. I support the Bill.

*Point of Order*

Mr. W. A. MANNING: On a point of order, Mr. Speaker, I would like your ruling as to whether this Bill is properly before the House. I find that clause 14 purports to amend section 322 which is not mentioned in the title of the Bill. Also, clause 26 purports to amend section 486, which again is not in the title. Section 485 is mentioned in the title but it is not amended by the Bill. That perhaps is

not material but there are two clauses which are not included in the title. I would like your ruling, Mr. Speaker.

*Speaker's Ruling*

The SPEAKER: I rule that this is a typographical error and it can be attended to in the Committee stage of the Bill.

Question put and passed.

Bill read a second time.

*In Committee*

The Chairman of Committees (Mr. Bateman) in the Chair; Mr. T. D. Evans (Attorney-General) in charge of the Bill.

Clause 1: Short title and Interpretation—

*Progress*

Progress reported and leave given to sit again, on motion by Mr. T. D. Evans (Attorney-General).

## JUSTICES ACT AMENDMENT BILL

*Second Reading*

Debate resumed from the 30th March.

MR. MENSAROS (Floreat) [9.41 p.m.]: This Bill, of course, is consequential upon the Criminal Code Amendment Bill, but it also deals with a few other matters. As I mentioned in my comments on the latter Bill—and I probably made a mistake then by referring to the Child Welfare Act when I should have referred to the Justices Act—it is remarkable that the Attorney-General mentioned stipendiary magistrates in his second reading speech, instead of just "magistrates." I could not agree with this more in view of what I have said in regard to the amendments to the Criminal Code.

The SPEAKER: Would the honourable member raise his voice a little.

Mr. MENSAROS: I am sorry. Yet I cannot see the term "stipendiary magistrates" mentioned in the Bill; it is mentioned only in the second reading speech of the Attorney-General.

One can only agree with and support the provisions which allow the court to enforce recognisances not entered into as a result of an order or decision of the court, without compelling the court to sue for the bond or surety in separate proceedings. It is equally commendable to allow the court—and I understand this is what the Bill does—to review the sentence on the plea of guilty.

It might be worth while to remark here that perhaps it would be advisable to mention the correct charges or rather to describe the complete circumstances in summonses relating to traffic offences, because I am quite sure the examples the Attorney-General had in mind when he mentioned this amendment were connected with traffic offences. Often instances occur in which a summons is issued stating only, "You are charged with exceeding the speed limit." The person so accused or charged may remember that he might have exceeded the speed limit by eight or nine miles per hour. He may not place much importance on this, and he may plead guilty. Then during the proceedings before the magistrate it may turn out that evidence becomes available that in fact he exceeded the speed limit by 30 or 40 miles per hour, so a very heavy penalty is recorded against him. This, of course, alters the circumstances in which he pleaded guilty, and the conviction is recorded in his absence. So he may wish to have a retrial.

I am quite sure that if the circumstances were mentioned in more detail in the summons in many cases the person concerned would attend the proceedings instead of pleading guilty. Although causing lengthier proceedings, this would prevent the incidence of retrials. I would be grateful if the Attorney-General would look into this suggestion.

Mr. T. D. Evans: The honourable member has a great deal of competition as he speaks. It is most difficult to hear him.

Mr. MENSAROS: The provision of 21 days in which to seek a rehearing at the discretion of the court is one we can only welcome. It is a good provision, and this should be recorded. It is equally acceptable to remove the requirement regarding the amount of security for costs which must be lodged in the case of a rehearing. The Attorney-General has explained the circumstances which led to these amendments.

However, I have some objections to, and remarks to make on, clause 12. The Attorney-General explained this clause simply by saying that the values in regard to exemptable goods in cases where recognisance is broken were established a very long time ago; consequently they must be raised. This is fair enough, and I do not object to it. However there is a marked difference between proposed new paragraph (2) and the existing provision.

In the existing section the value of personal belongings is set at £10 or $20, and in addition "tools and implements of trade" are exempt. The proposed amendment in clause 12 sets various ceilings. It sets a ceiling of $100 on the personal belongings of a person, and $100 on the personal belongings of his wife. Then it mentions a value of $50 for the personal belongings of each member of his family. In the case of tools and implements—and the word "tools" is omitted; it simply says "implements of trade"—a ceiling of $100 is laid down.

I submit that if it was good enough that tools and implements of trade should be exempted for 60 or 70 years, it is good enough now. There was a reason for this

exemption. Even if the person concerned broke recognisance he was allowed to carry on with his trade because his tools and implements of trade were not taken from him. If we place a ceiling of $100 upon a person's implements of trade, we do not increase the value; in effect we decrease it very much because it is hard to imagine a carpenter today carrying tools worth less than $100. He has a power saw, and other machinery. Often he has a portable generator because he is required to go to jobs where no electricity is available. This is quite common nowadays.

I feel this provision is harmful to the interests of people who work with tools. Furthermore, the fact that the word "tools" is omitted causes uncertainty in the definition. If one sees the term "tools and implements" one is reasonably sure in one's own mind what is referred to. But if one sees only the word "implements" one could infer that things other than tools are to be included. One can think of bulldozers or trucks being implements of trade of a particular person, and I do not know whether the intention of the amendment goes that far. I propose to move an amendment to this clause to the effect that the original definition of tools and implements be retained, and that the ceiling of $100 is removed.

The provision which empowers the Attorney-General to apply for an order to quash a sentence which should not have been recorded is a very good one indeed. Also, I do not think we could have any objection to the amendment which provides that, in the event of costs being ordered against the Attorney-General, provision is made for payment of those costs by the Treasurer.

The last provision included in clause 16 I cannot object to, because obviously it is the modern view to use microfilm and other devices for record purposes and this can be accepted.

There is one doubt in my mind which concerns purely the drafting of the Bill. Having had experience of having to study large Acts such as this, clarity of drafting is important. If someone is confronted with a newly printed Statute, or an amended one, it is not likely that he will look for definitions at the back of the Act. I realise it may be necessary to define certain terms at the beginning of a part—even though this is at the end of the Act—because it is not necessary to define every word separately, and so perhaps this is easier for the draftsman. Even so the definition of four words instead of two terms if placed in that part of the legislation where all the other definitions are, would I think, be more satisfactory.

For the sake of clarity and to keep the legislation tidy I think we should attempt to do this; we should not place definitions in the front of the new part, but place them in that part of the legislation where all the other definitions are. To ascertain what the Minister or the department thinks about this I will place an amendment on the notice paper in this regard. It may be rather cumbersome to amend the Bill in this way but, in the end result, it would be tidier than if we accept the present proposal. This is all I have to offer in regard to the measure, and I support the second reading.

**MR. T. D. EVANS** (Kalgoorlie—Attorney-General) [9.54 p.m.]: I would like to offer an explanation to the House in general and to the member for Floreat in particular regarding the Criminal Code Amendment Bill which may be referred to as being aligned to this measure for the reason that I had great difficulty in listening to the full comments made by the member for Floreat. I certainly took copious notes, but I did intend, believing that there could be other speakers to the Bill, to call for a copy of his speech and so have time to go through it in detail to render justice to him, which obviously his study and examination of the measure deserves. However, as he was the only speaker it was not to be.

On this particular occasion I have noted, in general, that he commends the Bill; that he has referred to his objection to the clause in regard to which he intends to place an amendment on the notice paper and I will welcome the opportunity to examine the amendment.

I feel it is unfortunate that I have not been able to follow completely all the remarks made by the honourable member this evening as unfortunately he was suffering from a great deal of competition from other quarters in the Chamber. Having said that, I thank the honourable member for his support of the measure which I commend to the House.

Question put and passed.

Bill read a second time.

*In Committee*

The Chairman of Committees (Mr. Bateman) in the Chair; Mr. T. D. Evans (Attorney-General) in charge of the Bill.

Clause 1 put and passed.

*Progress*

Progress reported and leave given to sit again, on motion by Mr. T. D. Evans (Attorney-General).

## CHILD WELFARE ACT AMENDMENT BILL

*Second Reading*

Debate resumed from the 30th March.

**MR. MENSAROS** (Floreat) [9.57 p.m.]: I do not want to compete with the Attorney-General and I will be very brief with my remarks on this measure as was the Attorney-General when making his second reading speech, because this Bill is entirely

complementary to the Criminal Code Amendment Bill and I could not find any objection to this measure. In fact, I would remark that in this measure it is proposed to amend the third schedule to the original Act so that it will come into line with the proposed amendments in the Criminal Code Amendment Bill. Certain amendments to be made to sections of the Criminal Code make it compulsory for it to have a different title. One example is that when someone is charged with intent to commit a crime this has become a charge of intent to commit an offence, and consequently the title in the Act should have been changed.

Sections 183 and 184 of the Criminal Code referred to in the Child Welfare Act are two of the sections that are affected. I have not placed any amendment on the notice paper to give effect to this change in the Bill amending the Criminal Code, but I ask the Attorney-General to consider this because obviously it would make the drafting more tidy.

**MR. T. D. EVANS** (Kalgoorlie—Attorney-General) [10.00 p.m.]: I would like to thank the member for Floreat for his brief and supporting remarks in respect of this Bill. As indicated by him, the measure being much shorter in content does differ in so far as it bears the hallmark of, perhaps, a different draftsman from the one who drafted the Criminal Code Amendment Bill and the Justices Act Amendment Bill.

I will obtain a copy of the speeches of the member for Floreat in relation to the Criminal Code Amendment Bill and the Justices Act Amendment Bill, and make the appropriate remarks at the Committee stage of those Bills. I thank him for his support of the measure before us.

Question put and passed.

Bill read a second time.

*In Committee*

The Chairman of Committees (Mr. Bateman) in the Chair; Mr. T. D. Evans (Attorney-General) in charge of the Bill.

Clauses 1 to 3 put and passed.

Clause 4: Amendment to section 20B—

Mr. HARTREY: I draw attention to the wording in proposed subsection (4) (b) on page 3 which states—

> (b) if he elects to have the charge dealt with summarily, the court is required to reduce the charge to writing and to read it to him, and then to ask him whether he is guilty or not guilty of the offence; and if he says he is guilty the court is to convict him of the offence, but if he says he is not guilty the court is required to hear his defence and then deal with the charge summarily; .

It is fair enough that if he says he is guilty the court is to convict him of the offence; but if he says he is not guilty the court is required to hear his defence and then deal with the charge summarily. In my view the words "to hear his defence and then deal with the charge summarily" should be deleted. The accused should not be required to give his defence before the case is heard, but if he does not give a defence he can be found guilty. This is quite an irregular way of saying how the matter shall be dealt with. I move an amendment—

> Page 3, lines 11 and 12—Delete the words "to hear his defence and then deal with the charge summarily" and substitute the words "to deal with the charge summarily."

Mr. T. D. EVANS: I have no objection to the amendment. Perhaps it spells out in a more orthodox way the procedure which is followed by the court. I do not find any objection to the wording which is sought to be deleted. Obviously when a person says he is not guilty there is some defence, and if there is a defence the court is required to hear the defence and deal with the charge summarily. However, I have no objection to the amendment at all.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 5 and 6 put and passed.

Title put and passed.

Bill reported with an amendment.

*House adjourned at 10.08 p.m.*

# Legislative Council

Wednesday, the 12th April, 1972

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

## QUESTIONS ON NOTICE

*Postponement*

**THE HON. W. F. WILLESEE** (North-East Metropolitan—Leader of the House) [4.32 p.m.]: I have only the answers to two questions at hand and I therefore ask the permission of the House to deal with all questions on notice at a later stage of the sitting.

The PRESIDENT: Permission granted.

## MINING ACT

*Disallowance of Regulations: Motion*

**THE HON. W. R. WITHERS** (North) [4.35 p.m.]: I move—

> That regulations made under the Mining Act, published in the *Government Gazette* on the 3rd December,