

with the board on several occasions. If the member bothers to check he can verify that.

Mr H. D. Evans: Does it have to be a prerequisite that the board create the situation? Of course it does not.

Mr OLD: He implies that we are ignoring the policy of the Farmers' Union. The policy of the Country Party is to take note of the opinions of producer organisations. That is what we are doing, and the Farmers' Union is not the only producer organisation. We are canvassing all producer organisations and seeking their opinions on matters relating to rural policy. I am quite convinced that we are carrying out the policy the Country Party wishes to be carried out.

I oppose the amendment in total because, as I claimed earlier, it is up to the Lamb Marketing Board to make an approach. I have quoted from letters where in the board has said it does not require this power. Therefore, I oppose the amendment and suggest that when the board makes an application for the gazettal of part IV, that is the appropriate time for this matter to be debated.

Amendment put and a division taken with the following result—

Ayes—19

Mr Barnett	Mr Hartrey
Mr Bateman	Mr Jamieson
Mr Bertram	Mr T. H. Jones
Mr Bryce	Mr McPharlin
Mr B. T. Burke	Mr Skidmore
Mr T. J. Burke	Mr Stephens
Mr Carr	Mr A. R. Tonkin
Mr H. D. Evans	Mr J. T. Tonkin
Mr T. D. Evans	Mr McIver
Mr Fletcher	

(Teller)

Noes—20

Mr Blaikie	Mr Nanovich
Mr Charles Court	Mr Old
Mr Cowan	Mr O'Neil
Mr Coyne	Mr Ridge
Mr Craig	Mr Rushton
Mr Crane	Mr Shalders
Dr Dadour	Mr Silson
Mr Grayden	Mr Thompson
Mr Grewar	Mr Watt
Mr Mensaros	Mr Clarko

(Teller)

Pairs

Ayes	Noes
Mr Harman	Mr O'Connor
Mr Taylor	Mr Laurance
Mr May	Mr Young
Mr Davies	Mr F. V. Jones
Mr Moiler	Mr Sodemam

Amendment thus negatived.

Debate (on motion) Resumed

Question put and negatived.

Motion defeated.

House adjourned at 10.39 p.m.

Legislative Council

Thursday, the 2nd October, 1975

The PRESIDENT (the Hon. A. F. Griffith) took the Chair at 2.30 p.m., and read prayers.

QUESTIONS (12): ON NOTICE

1.

RAILWAYS

Kukerin: Freight

The Hon. A. A. LEWIS, to the Minister for Health representing the Minister for Transport:

- (1) What tonnage of forward freight has been handled by Westrail from Kukerin railway station in the years—
 - (a) 1972-1973;
 - (b) 1973-1974; and
 - (c) 1974-1975?
- (2) What tonnage of grain is estimated to be left awaiting cartage from the Co-operative Bulk Handling bin at Kukerin at the present time?
- (3) What tonnage of superphosphate has been received into Kukerin station in the years—
 - (a) 1972-73;
 - (b) 1973-1974; and
 - (c) 1974-1975?
- (4) What is the cost of the freight in questions (1) and (3)?

The Hon. N. E. BAXTER replied:

- (1) (a) 17 722 tonnes (Including 17 126 tonnes grain).
- (b) 26 795 tonnes (Including 26 198 tonnes grain).
- (c) 11 709 tonnes (Including 10 920 tonnes grain).
- (2) 357 tonnes of barley only.
- (3) (a) 4 428 tonnes.
- (b) 5 184 tonnes.
- (c) 3 468 tonnes.
- (4) 1972-73—\$130 605.
1973-74—\$213 759.
1974-75—\$114 389.

2. *This question was postponed.*

3.

PEARSON STREET.

Realignment

The Hon. R. F. CLAUGHTON, to the Minister for Justice representing the Minister for Works:

- (1) What charge is being made on the City of Stirling for the resiting of services as a consequence of the widening and realignment of Pearson Street for work carried out by the—
 - (a) Metropolitan Water Supply Department; and
 - (b) State Energy Commission?
- (2) What has been the variation in the cost of the work being carried out by these authorities since an application was made in 1974 by the City of Stirling for a grant to undertake this work?

- (3) Has the council made a request for a further grant to cover cost increases for these works?

The Hon. N. McNEILL replied:

The Metropolitan Water Board advises—

- (1) (a) An estimate of \$24 150 was given in April 1975.
 - (2) Not known, as the work is still in progress.
 - (3) Not known.
- The State Energy Commission advises—
- (1) (b) An estimate of \$39 900 was given.
 - (2) The first estimate was requested by the City of Stirling in 1975.
 - (3) Not applicable.

4.

TOURISM

Interstate Road Traffic

The Hon. R. H. C. STUBBS, to the Minister for Health representing the Minister for Tourism:

- (1) Is it known by the Tourist Department in Western Australia the approximate number of tourist vehicles that pass through Norseman travelling—
 - (a) from the Eastern States; and
 - (b) to the Eastern States?
- (2) If so, will the figures be stated?

The Hon. N. E. BAXTER replied:

- (1) (a) and (b) Yes.
- (2) (a) Estimated approximately 33 000 tourist vehicles from July, 1974 to June, 1975.
- (b) Estimated approximately 35 000 tourist vehicles for the same period.

5.

TRAFFIC

Hay Street Mall

The Hon. S. J. DELLAR, to the Minister for Health representing the Minister for Traffic:

- (1) What Acts, by-laws, regulations, or instructions under the control of, or issued by the following bodies, govern the access to the Hay Street Mall by taxicars picking up or setting down house guests at the residential hotel situated in the Mall—
 - (a) Perth City Council;
 - (b) Taxi Control Board;
 - (c) Road Traffic Authority; and
 - (d) Police Department?
- (2) Has a recent instruction been issued to police officers to police taxi traffic entering or leaving the Mall with house guests from the hotel referred to in (1) above?

The Hon. N. E. BAXTER replied:

- (1) (a) Perth City Council—No Acts, by-laws, regulations or instructions.
- (b) Taxi Control Board—No Acts, by-laws, regulations or instructions.
- (c) Road Traffic Authority operates under Regulation 1805
 - (1) (e), Road Traffic Code, 1975.
- (d) Police Department operates under Regulation 1805
 - (1) (e), Road Traffic Code, 1975.
- (2) As from 15th September, 1975, the Road Traffic Authority and the Police Department took over the control of traffic in the Hay Street Mall. All vehicles including taxis are checked to see that the Road Traffic Code is complied with.

There is no objection to taxis picking up or setting down lodgers or house guests, but taxis are not permitted to set down or pick up patrons of the hotel in question.

6.

HYDEN-NORSEMAN ROAD

Upgrading

The Hon. R. H. C. STUBBS, to the Minister for Health representing the Minister for Transport:

- (1) Are there any plans made by the Main Roads Department for the future to upgrade the road from Hyden to Norseman and bring it through the Town of Norseman?
- (2) Does the Main Roads Department appreciate that if a safe road was developed from Hyden to Norseman, not necessarily bitumen, the Towns of Merredin, Naremben, Kondinin, Hyden and Norseman, could participate in the tourist dollar?

The Hon. N. E. BAXTER replied:

- (1) No.
However, it has been agreed by the Federal Department of Transport that the feasibility of a more direct link to Perth westward of Norseman will be the subject of a future investigation. No time has been set for the commencement of this study.
- (2) Norseman is already strategically located to benefit from tourist traffic. Merredin also is on one of the recognised east-west tourist routes. The other three towns would not necessarily all benefit greatly and any gain would no doubt be at the expense of the centres on the existing routes.

7. LOCAL GOVERNMENT

Shire of Exmouth

The Hon. S. J. DELLAR, to the Minister for Justice representing the Minister for Local Government:

Further to the reply to my question on the 11th September, 1975, regarding the future administration of the Shire of Exmouth—

- (a) will the Minister advise the present attitude of the Government to the appointment of an elected council, as it applies specifically to the Shire of Exmouth; and
- (b) will the ratepayers and electors of the Shire of Exmouth be invited to express their opinions when the question of future administration of local government at Exmouth is being considered?

The Hon. N. McNEILL replied:

- (a) The Government believes an elected council should be established at Exmouth as soon as is appropriate, recognising that at present there are special circumstances.
- (b) The Minister is considering an arrangement whereby the local people can be more closely involved in local government affairs.

8. TRAFFIC

Eyre Highway

The Hon. R. H. C. STUBBS, to the Minister for Health representing the Minister for Traffic:

What will be the estimated traffic density in vehicles travelling the Eyre Highway when the highway is completely bituminised at the end of 1976, travelling—

- (a) east; and
- (b) west?

The Hon. N. E. BAXTER replied:

Whilst increased usage of the Eyre Highway can be expected following completion of the sealed surface, it is not possible to estimate, with any reasonable degree of accuracy, what this will be.

9. SEWERAGE

Contracts

The Hon. R. F. CLAUGHTON, to the Minister for Justice representing the Minister for Works:

- (1) (a) What contracts for sewerage works have been let to Leighton Contractors Pty. Ltd. for the financial years—
 - (i) 1974-1975;
 - (ii) 1975-1976; and

(b) what is the value of each of these contracts?

(2) For each of the financial years above—

- (a) what other contractors have been awarded contracts for sewerage works; and
- (b) what is the value in each instance?

The Hon. N. McNEILL replied:

The Public Works Department advises—

(1) Nil.

(2) 1974-75

(i) Easton Corporation Pty Ltd—Collie sewerage—\$74 694.

(ii) Hubel and Sons Pty Ltd—Roebourne sewerage—\$90 994.

(iii) W. G. and M. J. Cameron—Mount Barker sewerage—\$98 211.

1975-76—Nil.

The Metropolitan Water Board advises—

(1) (a) and (b)—

1974-75—

Reticulation Area, Scarborough—\$384 710.

Reticulation Area, Belmont—\$1 378 865.

1975-76—

Pumping Station, Rockingham—\$139 840.

(2) (a) and (b)—

1974-75—

	\$
Toodyay Stone Suppliers	470 208
Torrance Construction Pty Ltd	83 217
Floreat Plumbing Pty Ltd	238 210
Alber Construction Co.	98 440
Alber Construction Co.	847 079
Easton Corporation Ltd	647 380
Toodyay Stone Suppliers	75 421
J. O. Clough & Son Pty Ltd	552 419
Toodyay Stone Suppliers	796 326
1975-76	
Torrance Construction Pty Ltd	101 694

10. BALLADONIA-ESPERANCE ROAD

Upgrading

The Hon. R. H. C. STUBBS, to the Minister for Health representing the Minister for Transport:

- (1) Are there any plans by the Main Roads Department for the future to upgrade the road direct from Balladonia to Esperance?
- (2) If so, when are the plans likely to be put into effect?

The Hon. N. E. BAXTER replied:

- (1) No.
- (2) Answered by (1).

11. CAPE RANGE NATIONAL PARK

Grazing of Horses

The Hon. S. J. DELLAR, to the Minister for Health representing the Minister for Lands:

- (1) What objections has the National Parks Board to horses, owned by residents of Exmouth, grazing on the unfenced portion of the Cape Range National Park which was formerly part of the Yardie Creek pastoral lease?
- (2) Is the board aware that the ranger in charge issued an instruction, by letter on the 12th September, 1975, to the President of the Exmouth Horsemen's Association, advising that all stock watering facilities will cease to be maintained in the very near future, and that horses already grazing in the park should be removed as soon as possible?
- (3) If so, will the National Parks Board construct without delay a suitable fence to prevent horses straying onto the area of the national park, or alternatively, erect signs advising horses that watering facilities no longer exist and that they should not trespass?

The Hon. N. E. BAXTER replied:

- (1) The National Parks Board objects as the practice of pasturing stock on national parks is contrary to national park concepts and contrary to the by-laws.
- (2) Yes.
- (3) The National Parks Board will erect signs.

12. TOURISM

Wave Rock

The Hon. R. H. C. STUBBS, to the Minister for Health representing the Minister for Tourism:

- (1) Is it known by the Tourist Department the number of people who have visited Wave Rock in

Hyden in each of the past five years?

- (2) If so, will he state the figures?

The Hon. N. E. BAXTER replied:

- (1) and (2) It is not possible to record accurately visitor attendance at Wave Rock but estimates based on caravan park occupancy indicate that in excess of 25 000 persons would have visited the area during the period 1971-75 inclusive.

ELECTORAL DISTRICTS ACT AMENDMENT BILL

Report

THE HON. N. McNEILL (Lower West—Minister for Justice) [2.44 p.m.]: I move—

That the report of the Committee be adopted.

Question put and a division taken with the following result—

Ayes—18

Hon. C. R. Abbey	Hon. M. McAleer
Hon. N. E. Baxter	Hon. N. McNeill
Hon. G. W. Berry	Hon. I. G. Medcalf
Hon. H. W. Gayfer	Hon. T. O. Perry
Hon. Clive Griffiths	Hon. I. G. Pratt
Hon. J. Heitman	Hon. J. C. Tozer
Hon. T. Knight	Hon. W. R. Withers
Hon. A. A. Lewis	Hon. D. J. Wordsworth
Hon. G. E. Masters	Hon. V. J. Perry

(Teller)

Noes—8

Hon. R. F. Claughton	Hon. R. T. Leeson
Hon. D. W. Cooley	Hon. R. H. C. Stubbs
Hon. S. J. Dellar	Hon. R. Thompson
Hon. Lyla Elliott	Hon. D. K. Dans

(Teller)

Pair

Aye	No
Hon. G. C. MacKinnon	Hon. Grace Vaughan

Question thus passed.

Report adopted.

INVENTIONS BILL

Second Reading

THE HON. N. E. BAXTER (Central—Minister for Health) [2.49 p.m.]: I move—

That the Bill be now read a second time.

The purpose of this Bill is to assist and promote the interests and welfare of inventors in Western Australia for the benefit of both the individual and the State.

For some time it has been appreciated that little has been done officially to assist inventors, although the Department of Industrial Development has always been available to give advice when this has been sought and, on a few occasions, the State has been able to assist financially through that department.

Recently, a party of agricultural experts from Algeria visited Western Australia to examine our techniques for utilising low rainfall land resources, and to evaluate agricultural machinery used here. Before they left, they informed the Minister for Industrial Development how impressed

they were with our agricultural implements. They said these "Were technically simple, robust, and efficient; they obviously reflected the result of practical people solving local problems in a practical way". They compared this which their experience with northern hemisphere manufacturers whose machines reflected that they were produced by competent technicians in the factories, but remote from the problems encountered by the farmer in the field. They commented upon the unique inventiveness of Western Australians.

These skills have also enabled the State to join with Libya in an agricultural development project in that country, using Western Australian tractors and farm equipment.

Assistance to inventors, therefore, should not be regarded as some form of Government handout. It is an investment by the community in the creative and technical skills of the State. The State has benefited greatly from these in the past, and it can be confidently expected that it will do so in the future.

This Bill will help in some small way those persons who have a capacity to make a contribution in this important area of the State's development.

There are many steps to be taken from the "idea" stage through the building of a prototype, the patenting procedure, and ultimately the manufacturing and marketing functions. These take time and, in many instances, considerable finance is required if the idea is to be pursued to final realisation of its goal.

Therefore, in order to formulate a situation which, because of a lack of set rules, had to be approached in a rather arbitrary manner, the Bill now before the House has taken shape.

The proposed Act is to be titled the Inventions Act and makes provision *inter alia* for the appointment of an inventions advisory committee, consisting of an officer of the Department of Industrial Development, four members of the Western Australian Branch of the Inventors Association, an engineer from the Public Works Department, and up to two other persons who have had experience in science, technology, industry, and administration. Each member shall be appointed by the Minister for a period of three years. The functions of the committee will be to examine and evaluate any invention referred to it, and recommend to the Minister levels of financial and other assistance.

Where the Minister, upon recommendation by the advisory committee, considers that an invention is likely to lead to the establishment of an industry or to be an advantage to the State, he may arrange assistance in a number of ways.

These can consist of monetary assistance, either by a grant or loan, practical assistance from Government departments or instrumentalities by arrangement with

the appropriate Minister, or such advice or other form of assistance as the Minister deems appropriate. It is not envisaged that this advice would apply to legal matters, which are properly within the province of a patent attorney or solicitor.

Where financial assistance is approved by the Minister, he may enter into a formal agreement with the inventor which would lay down the terms and conditions and take security by way of a mortgage or by some other form and set an interest rate and repayment programme.

An inventions assistance trust fund will be established in the Treasury, into which will be paid moneys appropriated by Parliament and repayments of loans plus interest, paid out of the fund.

It is hoped that where an inventor has received assistance under the provisions of this Bill and the project turns out to be an outstanding commercial success, he would contribute to the fund more money than the original assistance granted, and this will be for the benefit of other inventors.

The advisory committee will be asked to consider a scheme whereby successful inventors are formally obliged to make a reasonable return to the fund over and above the amount received from it.

It would be expected that not all supported inventions would lead to commercial development of a product and in these cases assistance from the fund may not necessarily be recouped.

Philanthropists may wish to assist by donating money to the fund, because of their own conviction of the worth of supporting our inventive potential, and perhaps others who have already benefited from the fund will make contributions to such an officially sponsored fund to help in the future.

There are the usual machinery clauses in the Bill to provide for the appointment of deputies to the committee, convening of meetings, numbers to constitute a quorum, appointment of a secretary, making of regulations, and so on.

All officers and committee members associated with administering the Act will be made aware of the statutory requirement to preserve the confidentiality of the information coming into their possession. A penalty of up to \$1 000 is provided for any breach of the secrecy clause.

The recommended budget of the Department of Industrial Development contains a small amount to meet the cost of any assistance granted in this financial year.

Members who have examined the Bill as originally introduced by the Minister for Industrial Development will perceive that this amended Bill which comes to the Legislative Council contains an additional clause—No. 12—necessitating the renumbering of the original clause 12 and subsequent clauses.

The new clause came about as a result of a somewhat similar amendment placed on the notice paper in another place by the member for Clontarf, who stated in Committee that the Inventors Association was most concerned at the possibility of one of its members being debarred, by virtue of the fact that he was a member of the inventions advisory committee, from seeking assistance if he had a worth-while invention.

The purpose of the new clause is to enable such member to enter into the committee's deliberations concerning his own invention, but not into those deliberations in respect of and relating to a recommendation for or against assistance to develop the invention.

I commend the Bill to the House.

THE HON. D. W. COOLEY (North-East Metropolitan) [2.57 p.m.]: The Opposition has no reason to oppose this Bill. We view it in the light that it provides assistance to people who are well worthy of assistance. We understand a fund will be established for the purpose of granting financial assistance to people who produce worth-while inventions. An advisory committee will be established to advise the Minister in respect of this. Provision is also made for loans to be granted to inventors. Provision is further made that under some circumstances grants made to a person may be refunded by that person.

The only matter that worries me a little is the size of the penalty for breach of confidentiality on the part of any member of the committee. The penalty is only \$1 000; and if a person produced an invention worth \$1 million and a member of the committee were involved in a breach of confidentiality, it would give cold comfort indeed to the inventor to know that the offender could be fined only \$1 000.

Question put and passed.

Bill read a second time.

In Committee

The Chairman of Committees (the Hon. J. Heitman) in the Chair; the Hon. N. E. Baxter (Minister for Health) in charge of the Bill.

Clauses 1 to 14 put and passed.

Clause 15: Protection of members and officers—

The Hon. N. E. BAXTER: I would like to reply to Mr Cooley's query about the penalty of \$1 000 for a breach of confidentiality as this relates to inventions. The amount certainly does not seem very great, but one must appreciate that inventions are generally patented and the divulging of any technical information after that would do no great harm.

This is merely aimed at the divulging of information in connection with financial assistance and so on, because most people like to keep their business affairs confidential. The purpose of the penalty is to prevent this happening.

Clause put and passed.

Clause 16 put and passed

Title put and passed.

Report

Bill reported, without amendment, and the report adopted.

CONSTITUTION ACTS AMENDMENT BILL (No. 2)

Second Reading

THE HON. N. McNEILL (Lower West—Minister for Justice) [3.04 p.m.]: I move—

That the Bill be now read a second time.

As honourable members will have become aware, it is proposed, under the provisions of the Electoral Districts Act Amendment Bill, to create an additional four electoral districts within the metropolitan area, within the boundaries proposed to be extended by that Bill, and to create an additional electoral province also within the metropolitan area as so extended.

Such a proposal necessitates amendments to the Constitution Acts Amendment Act which deals with the Constitution of the Houses of Parliament as distinct from electoral boundaries. Accordingly, this Bill seeks to enlarge the membership of both this House and the Legislative Assembly.

The creation of an additional province within the metropolitan area requires special provision to avoid transitional difficulties.

If the metropolitan area, which is currently divided into five electoral provinces, is re-divided with effect from the 21st May, 1977 into six such provinces, each of those provinces so created will have some common ground with one or more of the existing five, and it is likely to be most difficult to say that any of the six electoral provinces is "the new" province.

The allocation of new metropolitan provinces to each of the five legislative councillors who still have three years to serve on and from the 21st May, 1977 is therefore a first requirement. There will be, from that date, six metropolitan provinces, so that the situation is not comparable with that which existed in 1965 when 15 Legislative Councillors were given the right to choose or to have allocated to them one of 15 new provinces. The difference lies in the fact that there will be more provinces than continuing members.

When the Electoral Commissioners have re-divided the enlarged metropolitan area into six, in lieu of five, electoral provinces, it is quite likely that one or more of the new provinces will have substantially common ground with a previous metropolitan electoral province as I have already indicated.

It is the Government's view that in those circumstances the person who holds an existing electoral province which is substantially the same as a new province should have a prior right to have that new province allotted to him.

To give effect to this policy the Bill provides that where a new metropolitan province contains more than 50 per cent of the same electors as now enrolled for an existing metropolitan province, the member for the existing metropolitan province has a prior right, should he so desire, to have that new province allocated to him.

In order that the Legislative Councillors concerned will know before making their choice, whether they have a prior right to any particular province, the Bill requires the Chief Electoral Officer, as soon as practicable after the Electoral Commissioners have made their final report and recommendations, to publish in the *Government Gazette* a notice specifying each existing and each proposed new metropolitan province which had 50 per cent common electors as at the 30th September, 1975, that being the same date as the date on which rolls are to be made up for use by the Electoral Commissioners in effecting the redistribution.

Apart from that, the Bill follows basically the pattern set for the 1965 situation in that where two or more members—none of whom has a prior right under the 50 per cent rule—apply for the same province, a ballot is to be held to determine which of the applicants is to have that province allocated to him.

The Bill then has to take account of a possibility that two or more Legislative Councillors may make only one nomination for the same province, and thus, even after the ballot is held, there are two or more of the six provinces left without a continuing councillor. In that event the Bill provides that the Chief Electoral Officer shall place slips containing the names of the unallotted electoral provinces in one box and slips containing the names of the councillors to whom no province has been allotted in another ballot box. A slip is simultaneously withdrawn from each of the boxes until no further names of continuing councillors remain in the appropriate ballot box. There would still remain one slip in the ballot box containing the names of the unallotted provinces, there being one province which will not have a continuing councillor, because there are only five continuing councillors and six new provinces.

Members may recall that in 1965 the continuing Legislative Councillors were not required to make their choice until after the general election. It will be readily apparent that if that were followed again in 1977 there would be no continuing councillor for one province, leaving the Legislative Council with only 31 members

from the 21st May, 1977 until the 21st May, 1980.

The Government wishes to retain the traditional situation whereby each electoral province is represented by two members, and thus in order to effect that result it is necessary to depart in another respect from the procedure adopted in 1965.

The Bill therefore requires the five metropolitan Legislative Councillors to make their application prior to the 1977 general election and in fact almost immediately after the publication of the commissioners' final reports and recommendations and the notice of the Chief Electoral Officer specifying the electoral provinces which have more than 50 per cent common electors. This is to ensure that by the end of July 1976 the allocation of new metropolitan provinces to the continuing metropolitan Legislative Councillors will be complete, and thus, by the end of July, 1976, the metropolitan province for which there is to be no continuing Legislative Councillor, will have been identified.

On this premise the Bill requires the conduct of a separate election to elect a Legislative Councillor for a three-year term for that sixth metropolitan electoral province on the same day as the 1977 general election, and the person elected at that separate election will sit from the 21st May, 1977, until the 21st May, 1980.

The provisions in the Bill ensure that nothing contained in this measure or in the Electoral Districts Act Amendment Bill will affect the term of office of any member presently holding office in either House, or the boundaries or name of the seat for which he was elected, subject only, of course, to the provisions dealing with the allocation of new metropolitan electoral provinces to Legislative Councillors due to retire in 1980.

I commend the Bill to members.

Debate adjourned, on motion by the Hon. R. Thompson (Leader of the Opposition).

EVIDENCE ACT AMENDMENT BILL

Second Reading

THE HON. N. McNEILL (Lower West—Minister for Justice) [3.11 p.m.]: I move—

That the Bill be now read a second time.

This amendment seeks to provide in the Evidence Act power for the Governor to make regulations with respect to the fixing and requiring the payment of fees and expenses to witnesses and interpreters called by the Crown in criminal proceedings and petty sessional cases or at inquests held by a coroner.

For many years payment of allowances and expenses of witnesses called by the Crown in these proceedings have been in

accordance with a scale of allowances promulgated by administration direction.

In this proposal interpreters will be dealt with specifically, whereas at present they are treated as professional persons for the purpose of payment.

This amendment will also clarify the responsibility of departments and instrumentalities for payment of fees and allowances. At the present time there is no provision for payment of witnesses called by other departments, statutory corporations, or local authorities in petty sessional matters, and it has been left to negotiation between the parties to settle fees and allowances.

This proposal to recoup witnesses and interpreters at reasonable rates for expenditure incurred, and time spent in attending court, will be more satisfactory administratively and from the point of view of members of the public who become involved in court matters in this way.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. R. Thompson (Leader of the Opposition).

HEALTH EDUCATION COUNCIL ACT AMENDMENT BILL

Second Reading

THE HON. N. E. BAXTER (Central—Minister for Health) [3.13 p.m.]: I move—

That the Bill be now read a second time.

Health education, as an organised activity, was inaugurated in the Public Health Department in 1956 with the appointment of a full-time health educator. Experience revealed that this activity required a broad base of public contacts to succeed.

In 1958 Parliament passed the Health Education Council of Western Australia Act. The council set up by the Act now comprises 18 persons, of whom four are *ex officio* councillors drawn from the Public Health and Education Departments, and 14 nominee councillors. The principal Act provides that one not being a public servant shall be a nominee of the Minister. One shall be a nominee of each of the following—

- the British Medical Association (W.A. Branch);
- the Senate of the University of Western Australia;
- the Divisional Executive of the Australian Red Cross Society (W.A. Division);
- the Local Government Association of Western Australia;
- the Road Board Association of Western Australia;
- the Committee of Management of the Western Australian Federation of Parents & Citizens' Associations;

the Perth Newspaper Proprietors' Association;

the Manager in Western Australia of the Australian Broadcasting Commission;

the Australian Federation of Commercial Broadcasting Stations (Western Australian Division);

the Country Women's Association of Western Australia (Incorporated);

a representative of employees and a representative of employers, both nominated by the Minister; and

a nominee of the Australian Dental Association (W.A. Branch) which representation was added by Act No. 4 of 1961.

The Council has functioned in an effective manner, despite difficulties, some of which can be solved by the Bill now under consideration.

The Australian Broadcasting Commission and the Red Cross Society feel that the role of the council has less relevance to their operations than in 1958, although one must acknowledge the fine contributions made by their representatives in earlier years. The Bill deletes their representatives from the council.

Some organisations no longer exist in the form, or under the name used in the Act. For instance, the Bill proposes to substitute the "Western Australian Council of State School Organisations" for "Parents and Citizens' Association". This latter title no longer applies.

Additionally, it is proposed to include representatives of several organisations having a close involvement with the work of the council. These organisations have been created since the Act was passed, and include such bodies as—

- the Western Australian Alcohol and Drug Authority;
- Western Australian Teacher Education Authority;
- Western Australian Division of the Australian Institute of Health Surveyors;
- Western Australian Branch of the Australian Public Health Association.

The composition of the council is to be altered. There shall be 21 members, instead of 18. No change is proposed in the number of *ex officio* councillors, but the wording has been modified to ensure representation from the Mental Health Services, and to reflect the fact that there is not now an officer of the Public Service carrying the title of Under-Secretary for Health.

The bodies who will be asked to nominate the remaining 17 councillors are specified in the re-enacted section 6 (3). I have

explained the reasons for the inclusion of organisations not previously represented on the council. The new council will have a strengthened element of advice from professional educators, and in turn be better enabled to convey its message and provide its services through these organisations.

The restriction imposed by the existing Act whereby *ex officio* councillors are disregarded in determining a quorum, has been deleted.

In reference to the procedural matters concerning the setting up of the newly constituted council, appointments of nominee councillors will be for staggered terms so that continuity of experience will be preserved.

I commend the Bill to the House.

Debate adjourned, on motion by the Hon. R. Thompson (Leader of the Opposition).

SUPREME COURT ACT AMENDMENT BILL

Receipt and First Reading

Bill received from the Assembly; and, on motion by the Hon. N. McNeill (Minister for Justice), read a first time.

FAUNA CONSERVATION ACT AMENDMENT BILL

In Committee

Resumed from the 3rd September. The Deputy Chairman of Committees (the Hon. Clive Griffiths) in the Chair; the Hon. G. C. MacKinnon (Minister for Education) in charge of the Bill.

Clause 23: Section 20 amended—

Progress was reported on the clause after the Hon. Lyla Elliott had moved the following amendment—

Page 15—Delete subparagraph (vii).

The Hon. W. R. WITHERS: I support the amendment which seeks to delete subparagraph (vii). If the proposed amendment is accepted by the Committee it will prevent wardens from entering and searching properties without a warrant. I would like to admit to some of my own frailties which have caused me to neglect to debate the measure until this stage. During this confession to my peers I would also explain to the Minister why he possibly thought he had my support up till the approach I made to him during the last sitting.

When this Bill was first introduced to the party room I was overseas and, therefore, I did not get my first motivation for a study of the measure. When I returned from overseas and sighted the Bill I did not read it. When I heard about the Bill I placed it low on my priorities and, because of that, I neglected it altogether. Members are aware that it is impossible for every one of us to read every clause and every passage of each Bill which comes to this

place. We sometimes rely on the interpretation of others and, in so doing, we can sometimes neglect the needs of our constituents.

During the debate on the second reading I heard my colleague, the Hon. G. C. MacKinnon, mention the word "crocodile". I then sat up and took notice because as members are aware the North Province is the only area in this State which has crocodiles running wild and on the loose. At that stage I thought possibly I had neglected a Bill of which I should have taken some notice, and I began a study of it. I also listened to the debates, and I heard Miss Lyla Elliott express her views about the clause now under discussion. I discovered that I agreed with her view, and that I could not agree to the inclusion of subparagraph (vii) of clause 23. Miss Elliott moved an amendment, with which I agree.

Also I have had a look at the amendment which the Minister has placed on the notice paper and although I agree that the proposal by the Minister will improve the Bill I consider the amendment moved by Miss Elliott to be far better because it will provide greater protection of the civil rights of our citizens.

Members will be aware that prior to 1974 we did, at some time or other, vote for legislation to allow wardens or officers of the State to enter properties without warrants. I have voted for such action myself because I have considered it necessary under certain legislation and under certain conditions. I am sure members will agree such a provision is vitally necessary in the case of the Health Act. However, I consider that those pieces of legislation were in the interests of the community—the whole community.

I do not consider that fauna wardens should need the power to enter a house without a warrant in order effectively to do their job. I do not think that is necessary at all. I have a horrible suspicion that because of the precedent set in other Bills which have allowed actions such as that, the officers of the department have asked their director and, in turn, the Minister to place this sort of provision within the Bill in order that their job will be made a little easier. I am afraid I cannot agree with that attitude. I would also mention that I do not think the Minister would claim the provision now under discussion was introduced because of precedent.

I would point out that in the past the balance between law enforcement agencies and private citizens has been necessary by imposing a justice of the peace between the law enforcement agencies and the private citizens. In this manner the citizens have been protected, and also the law enforcement agencies have been protected.

The principle of this interposition is reflected in the fourth amendment of the

Constitution of the United States, which reads—

The right of people to be secure in their persons' houses, papers and effects against unreasonable searches and seizures, they shall not be violated and no warrants shall issue but upon probable cause supported by oath or affirmation and particularly describing the place to be searched and the person or things to be seized.

This is reflected also in section 711 of the Criminal Code of Western Australia, and in section 10 of the Crimes Act of the Commonwealth, which are almost identical.

I consider that the Bill in its present form—including subparagraph (vii) of clause 23—does erode the civil rights of the citizen. Strangely enough, I consider the Bill would be stronger and better for the fauna officers, and better for the department and the State, without the inclusion of the clause. Of course, such a statement does require some explanation.

To explain my statement I would like to refer to a hypothetical situation; one where I will presuppose what any criminal would do, and also presuppose the action of a law-abiding citizen. Let us pretend that we have a criminal who intends to take contraband into his property, such contraband being crocodile skins or birds, or protected fauna. I refer to the items which come under the provisions of the Act it is proposed to amend. Let us suppose the criminal intends to hide the contraband from law enforcement authorities.

Most clever criminals know the law and they would have read the Act. If the criminal to whom I have referred knows that he can hide his contraband goods inside his house without fear of having it searched, but that if he hides the goods in his yard the yard can be searched, of course he will hide the goods in his house. So, what benefit will there be in allowing a fauna warden to search the curtilage or the courtyard of a private property? A criminal who has contraband in his possession will not place it where a fauna warden can search and find those goods.

Let us take the case of an innocent citizen. When a fauna warden approaches an innocent citizen and asks whether he can have a look around the curtilage or the courtyard of that person's property, the innocent citizen will, of course, say, "Yes".

If the innocent citizen will not permit a search, then he becomes suspect and a warrant can be obtained. Why not have a warrant in the first instance? If a warden suspects that a person has contraband on his property, why not obtain a warrant so that an officer can search the whole property, the house, the curtilage, and the courtyard?

One argument could be that a fauna warden going into a strange area may not be able readily to find a justice of the

peace who would issue a warrant. I do not think that argument has any merit, unless the departmental officer was not very good at his job. I do not believe our directors, deputy directors, or senior officers, would allow a man to operate on his own in strange areas unless he was good at his job. So we must assume that all these wardens are reasonably intelligent, sincere, and honest people, doing a fair job. I believe that to be true.

If we accept the argument that a warden in a strange area would not be able readily to find a justice of the peace, let us see how we can make his job a little easier. Each year a list of commissions for the peace are published by the State Government. With very little work a list could be prepared for each town and district. Each fauna warden could have a copy of this list. Also, a warden could carry blank applications for warrants with him. It would be very strange indeed for a justice of the peace to refuse to issue a warrant at the request of a warden.

The curtilage, garden, and courtyard of my home are part of my house, and in fact, some of them are part of the same structure. My house is designed to give complete privacy throughout the yard and courtyards. I have a courtyard on the right-hand side and a walkway on the left-hand side leading to a Japanese garden. I have also a covered courtyard because my home was designed so that I could live in the manner I wished to. Most houses are designed to fit in with the wishes of their owners. The entire front of my house is blocked off from the public, although there are no locks on the doors to the courtyards. I expect that any businessman or visitor to my home will go to the front door to announce his presence. Regardless of who it is, I would not like anyone to enter through my side gates.

The Hon. H. W. Gayfer: They would get lost.

The Hon. W. R. WITHERS: It is really only a small place.

The Hon. R. Thompson: Any termites in it?

The Hon. W. R. WITHERS: It is only a quarter-acre suburban allotment. I require privacy in my home.

The Hon. R. Thompson: If you were a metropolitan member you would not get it.

The Hon. W. R. WITHERS: I am aware that members of Parliament do not have afforded to them the same measure of privacy as do other members of the public. People visit us at all hours of the day and night, and this happens also to country members who live in the city, although perhaps not as often. Sometimes when I walk through my door I may remove my coat. If it is a very hot day, I may even remove my pants.

The Hon. G. C. MacKinnon: I think you have confessed enough.

The Hon. S. J. Dellar: Do you take your shoes off before you take your pants off?

The Hon. W. R. WITHERS: It is my privilege to do this, and I do not mind admitting that I do it occasionally. It is a natural thing to do.

The Hon. S. J. Dellar: So do I.

The Hon. W. R. WITHERS: Often members of my family will walk around the home with many parts of their clothing removed. It is their home so why not? They may wish to sunbake in the court-yards, and again, why not?

The Hon. D. K. Dans: I hope you have no termites in this house.

The Hon. W. R. WITHERS: I would not like any inspector, regardless of how good his intentions were, to walk through the unlocked gate leading to my courtyard; even if he were in search of some rare cocky, I would not like it at all.

The Hon. D. K. Dans: You are going well.

The Hon. R. Thompson: A hooked-beak one?

The Hon. W. R. WITHERS: I would be most incensed if I came home to find a strange person in my courtyard.

The Hon. D. K. Dans: I thought you were going to say a strange cocky.

The Hon. W. R. WITHERS: Very rarely would we stop to ask a stranger who turned up inside the gates of our properties, "Please, sir, would you explain to me what you are doing here?" If one's reactions are quick enough, if one has just seen a violent movie, or if one just feels like belting someone's head in on that particular day, the stranger may easily sustain a blow to his head with a piece of 4 x 2!

Where does a citizen stand in a situation like that? I am afraid that in this day and age we must accept that violence is a fact of life. I do not know how to correct the problem of violence, and I do not think any other members here have the solution. For this reason I believe the mildest of wardens could be put into situations of jeopardy under the provisions of this Bill.

I must say that I regret my early frailties which prevented me from expressing my views to the Minister so that I could have debated this matter in the party room and possibly suggested amendments before the legislation ever reached this Chamber. Unfortunately I have been slack and I was not able to do this. Therefore, I have considered Miss Elliott's amendment and I support it.

The Hon. G. C. MacKinnon: If confession is good for the soul, I suppose that speech may have done some good. However,

apart from that one point it has done no good whatever. The honourable member has been able to prepare a speech of good length and to go into all the ramifications of the legislation. I wonder why he was not able to ring me before lunch to advise me of this. I wonder why he was not able at least to wait until I rose to my feet to explain a few things instead of committing himself straightaway.

The Hon. W. R. WITHERS: Why should I ring you before lunch?

The Hon. G. C. MacKinnon: The honourable member apologised with soul-bearing pathos a few minutes ago that he had not been able to bring this matter up in the party room or discuss it with the Minister.

The Hon. R. Thompson: This is a House of Review.

The Hon. G. C. MacKinnon: Sure, and I am reviewing his speech!

The Hon. R. Thompson: You are reviewing why he did not get in touch with you.

The CHAIRMAN: Order! The Minister for Education.

The Hon. G. C. MacKinnon: Thank you, Sir. The honourable member said once or twice that he did not want his house searched. The amendment specifically excludes any search of his house without a search warrant, yet Mr Withers constantly referred to a search of his house.

The Hon. R. Thompson: The garden is part of the house; he explained that.

The Hon. G. C. MacKinnon: He suddenly woke up to what he had done, and in the last five minutes he went into that little bit of nonsense; but before that, he referred specifically to a search of his house.

The Hon. R. Thompson: It sounds better than that possum in a box down at Dunsborough.

The Hon. G. C. MacKinnon: Mr Withers representing the area he does, pricked up his ears when I mentioned the word "crocodile". If Mr Withers understood the danger the crocodiles are in in his area he would know what I was talking about.

The Hon. D. K. Dans: I saw a stuffed crocodile in Melbourne the other day. They are not very active there.

The Hon. G. C. MacKinnon: He would know that without this amendment, in the light of the activities of the Queensland Government at the time, we had no hope on earth of stopping the depredations of the crocodile population in Western Australia, because hunters were crossing the border, taking the crocodiles to the point of near extinction and returning to sell them on the open market in Queensland. Because Queensland at that time included crocodiles in the reptile species, it allowed them to be sold on the open market. To

protect both the Johnston crocodile and the salt water crocodile, it was necessary to impose very restrictive and serious provisions.

The Government wishes to amend the Act to permit certain areas of a property—not the house—to be searched without a warrant. I think it proper that we accept that the people who are to do the job will be reasonable people. I admit there are exceptions; Mr Perry illustrated such exceptions although there is no record of such incidents. Verbal inquiries and an examination of the records did not support his contention.

The Hon. T. O. Perry: I will soon establish that.

The Hon. G. C. MacKINNON: Mr Perry may do that, but I repeat that no record can be found. I am not denying such incidents can occur because I had occasion during my six years as Minister in charge of that portfolio to speak fairly firmly about some things that happened.

The Hon. T. O. Perry: The complaints were made to me.

The Hon. G. C. MacKINNON: Members will recall that I moved, on Wednesday, the 3rd September, that progress be reported on this clause to enable further consideration to be given to the various views expressed in relation to the move by the Hon. Lyla Elliott to delete subparagraph (vii) from paragraph (b) of the proposed amendment.

The purpose of the sub-paragraph is to enable wildlife wardens, already permitted under the principal Act to enter and search any land without warrant in the course of carrying out their official duties under the Act, to extend their inspection into the enclosed gardens or curtilages of dwelling houses.

I am sure members will agree that the proposed deletion of the new provision was well canvassed during the Committee debate, and needs no further repetition; suffice to say I indicated at the time I would be prepared to consider some alternative amendment other than the complete abolition of the proposal in the Bill.

Upon further consideration being given to members' submissions, the Minister for Fisheries and Wildlife has come forward with the amendment which appears on the notice paper.

This amendment provides statutory commendation of any complaints which may be made by the owner or occupier of a dwelling house before a justice of the peace, in any allegation that in his opinion there had been no reasonable grounds for the exercise of that power by the wildlife warden. It shall then be incumbent on the justice of the peace to cause the whole matter to be inquired into and make his findings known to the complainant and to the Minister.

It must be obvious to members that in the event of a justice establishing that a warden acted without reasonable grounds, it would become apparent that the warden would have acted without the authority provided by the Act.

I trust that this amendment will be accepted by the Hon. Lyla Elliott, and the Chamber generally; members are reminded that in the normal course of events, wardens will obtain search warrants in situations where they are easily available or desirable. Honorary wildlife wardens will still have no right of entry powers whatsoever, nor will such powers be sought for them by regulation.

The bulk of the laws to which Mr Withers referred are those laws which are aimed at the problems of one man in his dealings with another. In this legislation we are dealing with the actions of the most vicious predator on earth; namely, man, against species which for a variety of reasons should be looked after and kept in the community; I refer, of course, to ordinary wildlife. The Bill is designed to protect the wildlife of the country against depredation, normally by man, almost always for profit and frequently for extravagant profit.

We must always accept a different type of approach to this matter, and that different approach has always been accepted in our laws dealing with fisheries and wildlife. As Mr Thompson would be very well aware, our fisheries laws protect the crayfish against the depredations of man, and this legislation will apply in the same way. I sincerely hope members will reject the amendment currently before the House.

The Hon. R. Thompson: Is this legislation aimed at policing the powers of the Agriculture Protection Board relating to the keeping of birds?

The Hon. G. C. MacKINNON: To the best of my knowledge, it is not, although perhaps this may be so in the fullness of time. To the best of my knowledge, those requirements have not been gazetted.

The Hon. R. Thompson: Or for the keeping of rabbits for the purpose of bleeding greyhounds?

The Hon. G. C. MacKINNON: That is a different kettle of fish altogether, and I would not give any answer to that question.

Sitting suspended from 3.48 to 4.03 p.m.

The Hon. G. C. MacKINNON: A moment ago the Leader of the Opposition asked me whether this amendment had been incorporated in the Bill for the purpose of including it in the principal Act so that regulations which deal with the powers of an officer under the Act, and on which there has been some discussion, could be framed. My answer to the Leader of the Opposition is "No", because such a

provision would come under a separate Act and the amendment proposed is to the Fauna Conservation Act.

A wildlife officer, therefore, is not empowered to carry out any duties in accordance with the regulations under that Act, regardless of whether they may be proposed, or anything else. The Leader of the Opposition also asked me whether the amendment was to assist in policing such matters as rumours about people catching cats and similar animals to blood greyhounds. At the time I said I knew nothing about that, but I have since ascertained that the answer is "No". Any power to control such action would come under the Greyhound Racing Control Act, and any authority granted under the Fauna Conservation Act would not spill over into that sphere.

After careful and long consideration it was felt the major purpose of this legislation is effectively to control that very lucrative and extremely cruel and heartless practice of smuggling birds out of Australia. Many people engaged in this practice cram them into boot boxes and other containers which have a minimum of ventilation and these birds are exported and sold at extravagant prices overseas. What we are trying to do is to protect these birds. Some birds, such as the desert night parrots, are extremely rare and we want to preserve them for the future of the country. It was considered that some authority must be granted whereby we can deal with the sort of person who engages in this practice. I am sure Miss Elliott does not fully appreciate the cruelty and the depravity that occur in the practice of smuggling birds. When she does I am sure she will agree with the amendment I propose, because she is such a kind person that I am certain she would be the last to condone such a practice.

The Hon. W. R. WITHERS: Before the afternoon tea suspension I was pleased to hear the Minister, after my confession of frailty, ask why I did not make a telephone call to him prior to the Committee sitting today to advise him that I intended to support Miss Elliott's amendment.

The reason I am grateful to him is that he has just made a confession of frailty along the same lines as the confession I made—

The Hon. G. C. MacKinnon: Not me!

The Hon. W. R. WITHERS: —for the simple reason that at the beginning of last month I wrote a letter to the Minister for Fisheries and Wildlife pointing out to him that it was my intention to support the amendment placed on the notice paper by Miss Elliott. At a later date the Minister and his senior officers had a meeting with myself and other members to explain to us what this amendment would mean. Following that meeting I once again confirmed verbally to the Minister that I

would be supporting Miss Elliott's amendment.

At a subsequent date and at a party meeting I informed the members of my party that I intended to support the amendment.

The Hon. G. C. MacKinnon: Why did you tell a fib a moment ago when you said you did not?

The Hon. W. R. WITHERS: I did not tell any fib. Up till last month—

The DEPUTY CHAIRMAN (The Hon. Clive Griffiths): I would remind the honourable member that he is certainly not talking about the subparagraph that is proposed to be deleted and I suggest he should endeavour to confine his remarks to the question before the Chair.

The Hon. G. C. MacKinnon: A good idea.

The Hon. W. R. WITHERS: Yes, Mr Deputy Chairman. With reference to subparagraph (vii) in clause 23, which Miss Elliott seeks to amend—and I support her amendment—I wish to advise the Committee that I told the members of my party what I intended to do.

The Hon. S. J. Dellar: Why did you have to do that?

The Hon. W. R. WITHERS: I was not obliged to do so. For the Minister to say that I should have advised him of this I find rather strange, because it is tantamount to the frailty that I showed. Either the Minister did this deliberately to embarrass me—and I do not think he would do that—or he did not know what was going on, and if that is so it is an admission of the same frailty to which I confessed. I support the amendment.

The Hon. G. E. MASTERS: I share the concern of the honourable member who has just spoken and support the amendment moved by Miss Elliott.

The Hon. S. J. Dellar: Did you ring up?

The Hon. G. E. MASTERS: Let me get to that. I made it abundantly clear to all concerned that I would take this stand. I believe any authority given to a wildlife officer to enter a home—I am not talking about a house, but a home—

The Hon. G. C. MacKinnon: I quoted Mr Withers.

The Hon. G. E. MASTERS: In any case, I am talking about a home and not a house. I believe that for a wildlife officer to be granted the right to enter a home without showing just cause, or without being in possession of a warrant, constitutes an unacceptable infringement of the liberty of an individual.

We know that police officers in the course of their duty have a responsibility to protect life, limb and property. They have a far greater responsibility than a wildlife

officer, and yet, except in an emergency, they must be in possession of a warrant to search a home.

I wonder whether this is a bureaucratic decision made by the department which carries out this work. If so it would probably be with good intention. I am sure it is the duty of the department to carry out its work as expeditiously and economically as possible, but our job is to ensure that the rights of the individual are protected. In this particular case the matter has to be studied very carefully.

If the situation were reversed with a Labor Government in office and the Liberal Party in Opposition, I wonder whether the Labor Party would be defending this decision and we would be attacking it violently.

The Hon. D. K. Dans: That is just about what would happen.

The Hon. G. E. MASTERS: I refer to the point raised by Mr Heitman in the earlier part of the debate when he said that these officers come onto a person's property and quite often the owner feels like shooting them. That is a bad thing, but it is very real.

The Hon. J. Heitman: That statement is taken out of context a little.

The Hon. G. E. MASTERS: That is the sort of statement the honourable member made. He said a man felt like doing that.

The Hon. J. Heitman: I said that in many Acts authority was granted to various officers to enter a person's property to make an inspection, and that they should have the necessary authority to do that in connection with, say, barley crops, oats, or anything else.

The Hon. G. E. MASTERS: I think we should try to define the word "home". A home in Western Australia or in Australia generally differs greatly from a home in other parts of the world where people experience a cold climate. In Western Australia with the climatic conditions we enjoy, many people, particularly in the summer months, spend a great part of their day in their gardens.

They consider the shed, the verandah, and the garden as part of their homes. Western Australians and, indeed, Australians, regard their homes as their castles. We believe we should have the right to own our own homes and to protect them. This is important. What I am suggesting is that our homes do not consist of four walls and the door. It is the house and the garden surrounding it.

The Hon. G. C. MacKinnon: I have lived in the country all my life.

The Hon. G. E. MASTERS: We hear so much about civil liberties and the rights of the individual. I believe we should weigh the rights of individuals against the needs of the community and when the

needs of the community become more important these must take preference but with due regard for the dignity and interests of the people concerned. I do not believe this is the position in the situation under discussion.

It has been said we are not living in a police State and I hope we never will be. Mr Dans wanted to know where it will all end, and, indeed, if we carry on at this rate, where will it end? I appeal to members to think very carefully about this measure.

We are creating more rules, more civil servants, more regulations, more licenses, and so on and so on. The comment was made in another place that sooner or later we will have to obtain a license to go to the toilet. I do not say it will go that far but the present situation does make one wonder.

Privacy is a rare commodity and we must guard it jealously. It has been said that it would not happen to us. Maybe it would not, but the point is that it could happen and that is the whole reason for my opposition to the provision. I would strongly object, as would other members, if I were holding a private party in my home or my garden or if I were relaxing in it and someone came without a warrant to make a search. I would have to prove that any allegation made against me was wrong.

I contend that a wildlife officer should have a warrant before he enters anybody's property. I also believe it is a wrong attitude to say we must penalise the majority for the sake of getting at a very few. I therefore have great pleasure in supporting the amendment.

The Hon. G. C. MacKinnon: I want to make two points, without being inconsistent. I took umbrage at a remark of Mr Masters; that is, that this is a civil servant's solution to a problem.

The Hon. G. E. Masters: I said that they had a job to do and—

The Hon. G. C. MacKinnon: I know what the honourable member said because I heard him and I have heard the same remark so many times before. Our system is such that we have a Minister who has to approve any action. Both parties also have a party system under which any action is also considered. I have always taken offence when people blame civil servants. Under the Act we have an authority consisting of laymen, that authority being the WA Wild Life Authority. The name of the authority was changed as a result of an amendment moved by Mr McNeill when he occupied the chair at present being occupied by Mr Masters. A number of members are nodding their heads because they can recall the occasion. Laymen know that smuggling of wildlife in this State has become a very serious matter. It is a cruel and pernicious practice.

The Hon. G. E. Masters: No-one denies that.

The Hon. G. C. MacKINNON: An offender can remove the evidence by wringing the creature's neck and dropping it in a hole despite the fact that its value could be anything from \$5 to \$200 000. They are the two points I want to make.

The Hon. D. K. Dans: Is it not a fact that most smuggling of birds is normally detected by the Customs Department?

The Hon. G. C. MacKINNON: We are trying to stop the smuggling before it gets that far.

The Hon. D. K. Dans: Up to date, though, the only successful prosecutions have been launched by the Customs Department.

The Hon. G. C. MacKINNON: Mr Dans is absolutely right because the Act at present debars any search of a home and its curtilage, which is exactly where the offenders store the creatures. Consequently the only place they can be caught is at the point of departure from the country.

Let us be crystal clear on this. Anyone who supports Miss Elliott's amendment forfeits for ever more the right to make any complaints or to grizzle about the lack of detection of the smuggling of birds or anything else out of the country.

The Hon. T. O. PERRY: As one who earlier expressed a great deal of opposition to portions of the Bill, I now wish to make it clear that after studying Miss Elliott's amendment and the amendment foreshadowed by the Minister I believe the latter is the most acceptable. As you, Mr Deputy Chairman (the Hon. Clive Griffiths), being a very efficient Deputy Chairman, will not allow me to speak about the Minister's foreshadowed amendment yet, and as I do not want to incur your wrath—

The Hon. G. C. MacKINNON: Live dangerously. Take a risk.

The Hon. T. O. PERRY: —I will debate the Minister's amendment when it is before the Committee.

The Hon. LYLA ELLIOTT: Two issues must be determined. Let us forget all the nonsense the Minister has introduced. What we must decide firstly is whether a garden, curtilage, courtyard, or verandah is part of a person's home. I believe it is.

The Hon. G. C. MacKINNON: I do not think there is any argument on that. I will admit that. It is not part of the house, but it is part of the home.

The Hon. LYLA ELLIOTT: The second point we must establish is whether we support the invasion of the privacy of a person's home.

The Hon. G. C. MacKINNON: Of a smuggler's home. Bird smugglers are the cruelest people on earth.

The Hon. LYLA ELLIOTT: I have always believed that a garden is part of a person's home. I would be very surprised if the Minister would agree to the privacy of his home being invaded.

The Hon. G. C. MacKINNON: It is invaded day and night by electors anxious to talk to me. I do not object, but they do not have warrants.

The Hon. LYLA ELLIOTT: They undoubtedly knock on the door and wait until they are invited in.

The Hon. G. C. MacKINNON: Some do that.

The Hon. LYLA ELLIOTT: The Police Act refers to this very aspect, so obviously it has been considered in the past. It has been established that the curtilage of a person's premises, whether enclosed or fenced or not, is very much a private part of that person's home. Under section 66 of the Police Act a very severe penalty is provided for anyone who enters that portion of a person's home without lawful excuse. Section 66 reads—

Every person who shall commit any of the next following offences shall be deemed a rogue and vagabond within the meaning of this Act, and shall on conviction be liable to imprisonment for any term not exceeding twelve calendar months, with or without hard labour:—

I understand that an amendment is being considered in another place to provide a fine not exceeding \$1 000 or imprisonment. Listed under the offences which can incur this very severe penalty is the following in subsection (13)—

Any person who is or has been, without lawful excuse, in or upon any premises or the curtilage, whether enclosed or fenced or not, of any premises.

Obviously under that Act a curtilage is considered to be very much a part of a person's private property and no-one without lawful excuse has a right to be there.

As I have said several times before, the privacy of a citizen is one of his most precious rights. It is up to us to make sure this privacy is not eroded any further. The Minister provided no rational argument against my amendment, rather he sought to denigrate one of his own members. His case would have been much better served had he provided some reasonable rational argument.

The Minister knows my fondness for animals and therefore sought to play on my sympathy. I am aware of the fact that the Bill sets out to protect our wildlife and I am all in favour of laws for this purpose; but I do not agree that the end always justifies any means. This is the sort of thinking which is applied by totalitarian regimes which justify anything in

the interests of the State. They can infringe civil liberties at any time and justify their actions in the interests of the State.

No matter how fond we may be of animals and how determined we are to ensure they are not harmed, we cannot overlook the very important aspect of the civil liberties of citizens in this State.

The Hon. G. C. MacKinnon: To hell with the animals.

The Hon. LYLA ELLIOTT: Here we go again with the nonsense of the Minister.

I would like to thank Mr Withers and Mr Masters for their indication of support. However, I was rather shocked when Mr Perry said he thought the Minister's amendment was better than mine.

The Hon. G. C. MacKinnon: He does come from the country and knows what he is talking about.

The Hon. D. K. Dans: That is an about-face.

The Hon. LYLA ELLIOTT: When I saw the Minister's amendment for the first time I did not think he could be serious. I thought it was some sort of joke. Actually, it is an insult to the intelligence of members because it gives no protection to the person who could be offended against. As far as I am concerned, it is completely superfluous.

Surely if a person has a legitimate complaint against a wildlife officer he can go to the Minister to complain, and it would be incumbent upon the Minister to investigate the matter to ascertain whether the complainant's arguments were justified. Also we have an Ombudsman to whom complaints can be made. Why provide in the Act that a citizen can swear a complaint before a justice of the peace and as a result an inquiry can ensue? This will not stop any invasion of privacy. Most people, when this happens to them, will just complain about it and be very upset about it but take it no further.

The Hon. G. C. MacKinnon: Sit down and I will tell you.

The Hon. LYLA ELLIOTT: Even if it is placed in the Act, how many people will know about it and how many will know how to go about it? I think it is quite unnecessary and has nothing to do with the argument I have been putting in respect of preventing the offence in the first place. When we have a very severe penalty in the Police Act for invasion of a person's property without good cause, I cannot see why we are now going to provide in this legislation the means for any wildlife officer to commit the same offence with complete impunity. If an officer has good reason to believe an offence has been committed or is about to be committed, I cannot see why he could not obtain a warrant to enter that property instead of just bargaining in and invading a person's property.

The Hon. G. C. MacKinnon: As it is Committee debate, would you give me an

opportunity to answer the questions you have raised before you go on? You can get up again.

The Hon. LYLA ELLIOTT: I will finish first. It was interesting to read in last Saturday's issue of *The West Australian* a statement made by the Premier in the Greenough by-election campaign. The headline is "Government to make study of privacy rights" and the article goes on to say—

The WA Government wants to protect people's privacy from increasing controls and regulations.

A top-level working party will examine ways of doing it.

Later on it says—

He told a meeting at the Greenough shire offices that Australians had to be ever vigilant to ensure that they did not allow any government—State, Federal or local—to impose more and more control over their daily lives . . .

Sir Charles said that the aim would be to devise guidelines on the right to privacy . . .

Sir Charles said privacy could be categorised as:

Freedom from intrusion upon a person, his home, family and his relationships.

They are the relevant parts of the statement. So on one hand we have the Premier saying in Greenough that the Government is very concerned about the rights of privacy of the citizen—and he has every justification for saying that because legislation is forever being introduced which erodes those rights—and at the same time a Bill is introduced into this Parliament which will further infringe a person's right to privacy.

I appeal to members to support this amendment. In doing so they will be supporting the statement of their leader in Greenough last week.

The Hon. G. C. MacKinnon: The Hon. Lyla Elliott asked me a couple of questions and I will try to answer them. She asked me for a rational explanation. I thought I had given it but perhaps there are one or two things I could add.

Many of the problems relative to rare and endangered species arise in remote areas. This State is fairly sparsely settled and it is not always easy to reach a justice of the peace to have a warrant signed. Indeed, when complaints arise in Bunbury there is difficulty in getting a JP, so it would be much harder in Wiluna, the Pilbara, and so forth. That is the rational explanation.

The honourable member also asked about the rights of the individual. I have already covered that but members keep coming back and applying the same basic philosophy as we apply to actions between man and man.

A few years ago Mr Ron Thompson and I handled the Fisheries Act with complete unanimity on the philosophical basis that we were protecting crayfish from the depredations of man. We are doing the same thing here. That is what the legislation is about. It is not the law of torts or contracts. The basic philosophy is the protection of animals which cannot take man to law. So it is fundamentally different, and that is why these provisions need to be fundamentally different.

I sincerely hope members will vote "No" loudly and clearly on Miss Elliott's amendment in order to ensure there is a chance to catch those heartless people who will prey on our endangered species.

The Hon. LYLA ELLIOTT: I cannot understand the statements or logic of the Minister at times. He says the reason for this clause in the Bill is that it is not easy to get a JP in remote areas in order that the wildlife officer can obtain a warrant. Yet his amendment says—

... the owner or occupier of that dwelling house may make a complaint on oath before a justice of the peace—

If it is difficult for a wildlife officer to get a JP, it will be just as difficult for an aggrieved person to do so.

The Hon. G. C. MacKinnon: It is the time factor that is important for the wildlife officer.

The Hon. LYLA ELLIOTT: I cannot see that the amendment will do anything the Minister or the ombudsman cannot already do. There is confusion in the minds of members as to what this amendment means. Mr Perry has said he thinks the Minister's amendment is superior to mine but I cannot see what service it will provide to the aggrieved person that the Minister or the ombudsman cannot provide.

The Hon. G. C. MacKINNON: Because these two matters are interwoven, it is difficult to discuss one in total isolation. So I hope you will permit me to discuss them both together, Mr Deputy Chairman (the Hon. Clive Griffiths). The reason for the amendment in the form I propose is that it makes it abundantly clear to the wildlife officer—who is not an honorary officer but a fully employed officer—

The Hon. D. K. Dans: Does that prescription apply to an honorary warden?

The Hon. G. C. MacKINNON: Not at all. It applies to a paid professional officer who is subject to the disciplines of the department. The amendment I propose places an additional discipline upon the wildlife officer in that he knows that the man back of Turkey Creek can go into town next week or next month and bring any complaints to the attention of a JP.

A wildlife officer might be following a vehicle which disappears into the environs

of the driver's home. The wildlife officer might be fairly sure that vehicle is carrying smuggled birds and he wants to be able to go straight into the premises. He knows if he is not reasonably careful and properly behaved the owner of the home can immediately go into town and swear out a complaint before a justice of the peace. The amendment imposes an added discipline and pressure on him and I think it is a good amendment. Under all the circumstances, I think it is probably the best provision which could be devised.

The Hon. I. G. PRATT: I rise reluctantly to speak to this amendment. For some time I have had serious reservations about the provision. However, while it is extremely distasteful to me, I had become convinced it is in fact necessary to catch the person who is abusing his rights and privileges as an individual. But this afternoon I have been persuaded to change my mind and support Miss Elliott's amendment. I have not been persuaded by Miss Elliott, Mr Withers, or Mr Masters but in fact by the Minister, because what he said this afternoon makes it abundantly clear to me that it is necessary to require a search warrant.

Mr Withers mentioned his habit at times of using to the fullness the privacy of his own home. The Minister remarked rather disparagingly that it was a time of confession. It is not a time of confession but of cold, hard fact, because people do use their residences and the surrounds of their residences in that manner.

It was the wrong time to make that remark because this morning I was speaking to a small group of friends amongst whom was a young married lady in her late twenties. We were discussing the kind of day it was and what was to be done with it. The comment was made that I was going to be sitting in the confines of the Legislative Council while others would be enjoying the freedom of the outdoors. The young lady mentioned she was going to do some sunbathing. I did not query the extent of it but I know there is a six foot asbestos fence around her property to give it complete privacy. There are only two ways into the back garden; that is, either by going through the front door and through the house or by lifting the roller door of the garage.

The back yard has been landscaped and contains a swimming pool. If the lady uses this part of her home she is entitled to enjoy it, and she is entitled to the protection of the roller door of the garage just as much as to the protection of the front door of her house. No person has a right to enter the back garden by lifting the roller door any more than he is entitled to go through the front door, pass through the living room, and enter the garden by the back door.

It is all very well to say that the Minister's proposed amendment makes provision for an inquiry to be held after the event; but the young lady to whom I refer is of very high moral character, and no amount of inquiry after the event would in any way lessen the embarrassment and anguish that she and her family would feel if her privacy were invaded by a person entering the property without a warrant.

It is in this respect—the protection of privacy—that we need to provide for search warrants to be obtained. We have been told we have no right to blame civil servants. If I am taking the Minister's comments slightly out of context, he may correct me later; however, he has said that while most of our officers are upstanding gentlemen—and I agree with that—there are those who are exceptions to the rule. I feel if we have no right to blame anyone, now is the time to ensure that the exception to the rule does not occur, by not giving it an opportunity to occur.

We have been told that if we support this amendment, we will forfeit the right to complain in regard to the smuggling and ill-treatment of birds. However, we do not forfeit the right to complain in other areas of law in which search warrants are required. Therefore, I do not accept that argument in this case.

It has been said that the provision we are seeking to delete actually gives a license to people to invade a person's home, to which the Minister replied that it would be a smuggler's home that would be invaded. If that is so, we are assuming that anyone suspected of an offence is automatically guilty, and that is something I will not accept.

The Hon. G. C. MacKinnon: I have never heard such piffle.

The Hon. I. G. PRATT: The Minister will have an opportunity to expand upon this later. A smuggler's home is the home of a person who is proved to be guilty, and not the home of a person who happens to be suspected.

I said that I support the amendment with reluctance, but I am afraid that if I did not support it I would have a difficult job sleeping tonight.

The Hon. D. K. DANS: I have not altered my position in respect of this amendment. I agree with the objectives the Bill sets out to achieve; I think it is necessary and desirable legislation. I have great regard for our furry and feathered friends but, unfortunately for those creatures, I am here to represent people and my main concern is the invasion of privacy.

I have clearly indicated before that I am concerned about the actions of Governments of all political colours not only in this country but all over the world because day by day we see the rights of the individual being eroded. Likewise I

am concerned about the abuse of power, whether it be the power of the bureaucracy, the power of the Government, or the power of a trade union.

I agree with the Minister that in the final analysis he and not the department is responsible for the introduction of this Bill. However, more final than the Minister's responsibility is our responsibility as a Parliament. When I have criticised the role of the bureaucracy what I have really criticised is the incompetence of Parliament to make the most searching examination possible of all the legislation which comes before it. We all know that for a variety of reasons from time to time we do not give the right amount of consideration to a matter; and sometimes our political philosophies override our good sense. I suppose there is not a member in this Chamber who has not been forced to do some rethinking after seeing the effect of legislation for which he has voted.

Let us get rid of some of the misconceptions the Minister has used in order to convince us that Miss Elliott's amendment is wrong. If the amendment were carried I do not think it would do anything other than strengthen the Bill. I would have to agree with Mr Withers that if anyone is going to traffic—and "traffic" is the word, because smuggling is under the jurisdiction of the Commonwealth—in protected wildlife he will be sure to keep the animals inside his home which the Minister has assured us wildlife officers cannot enter.

The Hon. G. C. MacKinnon: I did not assure you of that; the Act does that.

The Hon. D. K. DANS: That is so; the Minister reinforced the assurance by drawing it to our attention. Such a person would take the necessary precautions to ensure that any animals he had were not outside the house where an inspector may search. Therefore, the obtaining of a search warrant would give greater protection against trafficking in wildlife. I do not know why the Minister placed heavy emphasis on smuggling. The reason that people only have been apprehended for smuggling by customs officers and Commonwealth police officers is that those officers are the only persons who have the power to do that. I have been told that birds are prepared for smuggling in what is more or less a surgery—which is not outside the house on a verandah—where they are drugged to put them to sleep. This Bill will not cover that kind of thing.

Certainly we want to protect our furry and feathered friends, but not at the expense of the privacy of the individual. I was particularly happy to hear Miss Elliott refer to the speech the Premier made the other day, because our privacy is continually being eroded. I am as sure as I am standing here that this provision will not assist in the apprehension of offenders, and that it will be necessary to extend the

powers of the officers to search inside private homes.

I refer to Mr Wordsworth's comments before the recess: What if a person has Johnstone crocodiles? Where would he keep them? In his bath?

A member: In the swimming pool.

The Hon. D. K. DANS: I would imagine if there were no justices of the peace in remote areas probably there would be no swimming pools. Certainly, as far as I am concerned I would not put a Johnstone crocodile in a swimming pool; all crocodiles are crocodiles to me!

The Hon. I. G. Medcalf: Naturally you would take it out before you had a swim!

The Hon. D. K. DANS: Let us get back to the point of the argument. Once more it is proposed to give further powers to people who in most cases are not trained in the apprehension of offenders; and it is proposed to give them power to invade the privacy of others without obtaining a search warrant.

It is all very well if these officers apprehend people who are mistreating animals. The Minister nearly had me crying previously when he spoke of wringing possums' necks, and now he is speaking of drugging birds. That could well happen. But what if the wardens enter the home of a completely innocent person such as an elderly lady?

The Hon. G. C. MacKinnon: Who would do that?

The Hon. D. K. DANS: Let us be honest. How does a police officer, a quota inspector, a fauna inspector, or any other inspector act?

The Hon. G. C. MacKinnon: Politely.

The Hon. D. K. DANS: They act upon information; and in many cases false information is supplied by vindictive people. Of course if the officers are properly trained they tread warily. However, we have many instances of persons' homes being invaded as a result of false information being supplied; and this could occur again and again in the case of fauna wardens.

I feel Miss Elliott's amendment should be carried so that we provide that fauna wardens must obtain a search warrant. If a police officer must go through that procedure, I do not think it is too much to expect the same of a fauna warden. I agree with the provisions of this legislation, and I agree we should try to prevent smuggling.

The Hon. G. C. MacKinnon: We are trying to prevent ill-treatment.

The Hon. D. K. DANS: I am aware that some people cut off cats' toenails so that greyhounds can chase them and not be scratched if they catch them.

The Hon. W. R. Withers: You have no evidence of that.

The Hon. D. K. DANS: No, and I know Mr Withers is connected with greyhounds. However, I know the newspapers in the Eastern States used to carry stories of poor old moggies hanging up with their toenails cut off.

The DEPUTY CHAIRMAN (the Hon. Clive Griffiths): Order!

The Hon. D. K. DANS: I am just trying to be graphic, Sir.

The DEPUTY CHAIRMAN: For the information of the member, we happen to be dealing with the deletion of subparagraph (vi).

The Hon. D. K. DANS: The Bill deals with fauna, and I suppose native cats and rabbits are fauna.

The Hon. G. C. MacKinnon: Rabbits are vermin, cats are feral.

The Hon. D. K. DANS: I get back to the kernel of this amending Bill. I think in our enthusiasm to protect the fauna of this State, and to prevent the kind of thing the Minister said this Bill will prevent, we should take great care to ensure that we do not impinge upon the privacy of the citizen.

The Hon. H. W. GAYFER: I rise not to support the amendment moved by Miss Elliott but to support the amendment which the Minister proposes to move later. I was intrigued at the amazement expressed by Miss Elliott after she had read the Bill and found what it provided in the way of powers being given to inspectors. She was horrified to think that this would happen, and from the way she spoke, one would almost imagine it had never happened before.

The Hon. R. F. Claughton: Which Act are you talking about?

The Hon. H. W. Gayfer: I am talking about the amendment moved by Miss Elliott.

The Hon. R. F. Claughton: She was not complaining about any power.

The Hon. H. W. GAYFER: She said she was amazed that provision should be made to enter a person's backyard and invade such person's privacy.

The Hon. Lyla Elliott: I did not say that. I said I was amazed at the Minister's proposed amendment.

The DEPUTY CHAIRMAN (the Hon. Clive Griffiths): Order!

The Hon. H. W. GAYFER: There was stress laid on the invasion of the privacy of the home and, when one considers this aspect, one generally refers to the backyard and the asbestos fence around it, and also possibly to the fence around the swimming pool. This seems to be the cause for concern.

I am mindful that under the provisions of other Acts my backyard can be invaded at any time, and this has happened on

various occasions when vermin inspectors and others in the course of their duties have inspected my property.

These acts of inspection are not very much different from those to which Mr Withers referred.

We get indignant about our privacy being invaded but we must also appreciate that these inspections are necessary to prevent the spread of various complaints—if I might use that expression—in and around our backyards.

I have a pretty big backyard, but whether it is a quarter of an acre or 5 000 acres is not important. There are people empowered by law to enter my backyard and search, advise, and tell me what I should do. If such an inspector happens to see an animal running out from under my verandah he has the authority to tell me to rip up my verandah and destroy the animals concerned. This also applies to inspectors of weeds, and so on.

I am sorry that we should be endeavouring to protect these animals and pests to a degree where I believe they should not be protected. I do not believe every bird is a hazard to the agricultural areas but there are many which are.

I am not upset at the implication made by Miss Elliott—even though she asserts she did not say it—but there are many of us who have to put up with inspectors coming into our backyard.

The Hon. G. C. MacKINNON: It is a delight to hear two speakers like Mr Dans and Mr Gayfer. At least Mr Dans has the courage and the fundamental basic honesty to stand up and say what is obviously true—that he represents people and that he will vote for them. This is something which nobody else has said. I accept his reason—and this may surprise some—because it is fundamentally honest. I accept Mr Dans's opposition as being proper.

The opposition by Mr Pratt, however, is ludicrous, particularly when he talks about a backyard being invaded, because a policeman can come to my backyard at any time with a warrant.

The Hon. G. E. Masters: We are talking about searching the home.

The Hon. G. C. MacKINNON: The policeman can come to my home and anybody who happens to be sunbathing in the backyard and who is uncovered will be visible. The butcher can come into my backyard.

The Hon. Lyla Elliott: Do they search and seize property?

The Hon. G. C. MacKINNON: We are not talking about searching.

The Hon. Lyla Elliott: Oh yes we are.

The Hon. G. C. MacKINNON: Mr Pratt was talking about people going into his backyard.

The Hon. I. G. Pratt: What about the dustman?

The Hon. R. Thompson: In most areas they will not go into the backyard.

The Hon. G. C. MacKINNON: That is right. The honourable member used the word "invade" and he will probably suggest that the person concerned will open the door and walk straight in. If it is a roller door it can be locked, particularly if anyone is sunbathing. This would mean that anyone wanting to get in would have to knock.

Mr Gayfer is absolutely right. The butcher, the dustman, and the policeman can all enter the backyard; and the policeman can get a warrant if he wishes to search. Mr Gayfer is right and Mr Dans is quite honest. Let us be either right or honest.

The Hon. Lyla ELLIOTT: Obviously Mr Gayfer was not listening to what I said, or I did not speak loudly enough.

The Hon. H. W. Gayfer: That is quite likely because often we cannot hear what you are saying.

The Hon. G. C. MacKINNON: That is one of the inequalities between the sexes—the louder voice of the male.

The Hon. Lyla ELLIOTT: Perhaps I should turn my back on the presiding officer and address Mr Gayfer.

The DEPUTY CHAIRMAN (the Hon. Clive Griffiths): I am sure the presiding officer would not permit that.

The Hon. Lyla ELLIOTT: However, I am glad Mr Gayfer wants to hear what I have to say.

The Hon. H. W. Gayfer: I am always glad to hear you.

The Hon. Lyla ELLIOTT: The amazement I expressed was not so much in connection with the amendment to the Act—though I was rather surprised to see the amendment proposed in subparagraph (vii)—but at the fact that Mr Perry was prepared to accept the Minister's proposed amendment; because it did nothing to help the principle I was trying to achieve by my amendment. I am trying to prevent the offence happening in the first place. The Minister's amendment says, "Let it happen; and when it happens the person concerned—not the wildlife officer or inspector—could approach the JP and have an inquiry instituted. This is not necessary because the Minister or the ombudsman could institute an inquiry into such a matter."

Mr Gayfer could not see anything wrong with the particular provision to which I have referred because a similar provision is contained in other Acts. That is precisely the point I raised when I moved my amendment. Rather than oppose my amendment, Mr Gayfer should consider the other Acts to ascertain just how they infringe on a person's rights.

The Hon. H. W. Gayfer: I do not mind people coming to my backyard to protect it from various pests.

The Hon. Lyla Elliott: There are others who do not accept that. We are not only concerned with Mr Gayfer's wishes but with those of the majority of the people who do not desire to see their privacy invaded.

The difference between the dustman and the officers under this legislation—and the Minister referred to this—is that the dustman is there with the permission of the householder who knows he will be arriving on certain days and, as a result, the householder's wife is not likely to sunbathe in the nude on those days.

The Hon. D. J. Wordsworth: What about the vicar?

The Hon. G. C. MacKinnon: Yes, what about when he calls?

The Hon. I. G. Pratt: If I rose previously with some reluctance, I now rise in sadness. The Minister is an expert in the field of wildlife and there is very little I can teach him on that subject.

There is, however, something I must teach him and that is that if he wishes to convince me he must do so with reason and facts not with bluff and abuse.

The Hon. G. C. MacKinnon: We gave you the additional argument of the vicar calling.

The Hon. I. G. Pratt: That was not the Minister's suggestion; the remark came from behind me.

The Hon. G. C. MacKinnon: I was merely requoting it; it was a good one.

The Hon. I. G. Pratt: We have been given a lecture in fundamental honesty.

The Hon. G. C. MacKinnon: By Mr Dans.

The Hon. I. G. Pratt: The implication of dishonesty was there, because the Minister when discussing my contribution said the words I used were ludicrous and utter piffle. If the Minister imputes dishonesty to me then that is his business, but if he does not perhaps he would have the courage to say so.

The Minister referred to my remarks about people entering a property through the roller door of a garage. I was quite clear in what I said but apparently the Minister missed the point. The only entry to the backyard of the house in question is by rolling up the roller door and entering through the garage, which in fact is part of the house; or by opening the front door and walking through the house and then through the back door to the backyard.

The Hon. G. C. MacKinnon: He cannot do that.

The Hon. I. G. Pratt: I do not think the garage can be described as part of the house under the law.

The Hon. R. Thompson: It is a curtilage.

The Hon. I. G. Pratt: Some houses have a 6 ft. fence around the backyard and it would be necessary for an inspector to jump over such fence; there is nothing to prevent him from doing this. I still think that any lady should be protected from such activities. There are houses which do not have access to the backyard; they are completely fenced off. My backyard is completely fenced and the only entry is through the roller door at the garage. So if I or my family were using the backyard and anybody wanted to get in he would have to jump over the fence.

I would regard that as an invasion of my privacy. The Minister said the inspector could knock on the front door of a house; but if the occupier is at the rear of his quarter-acre block how can he hear the inspector knocking on the door? He would need to have better hearing than I and other members have, judging from the comments that have been made in the debate this afternoon.

Mr Gayfer mentioned that similar powers of search are contained in other pieces of legislation. We have heard that so often that we tend to believe it. Let us turn to the powers of search of farming properties. Most of these searches relate to the business activities of the farmers—activities such as the production of grain, or the eradication of vermin which affects their business.

However, it is an entirely different matter from making a search for the purpose of determining whether someone is committing an offence. Mr Gayfer mentioned the searching of farms. Generally the house and the surrounds are part of the farm, and it is not unusual to find spare parts and other things on the verandah of the farmhouse.

In the case of urban properties the garden is usually considered to be part of the house; so the situation is entirely different. Furthermore, the way of life of the farmer and the city dweller is different, and the attitude of the person occupying a house and its surrounds is also different. For those reasons we cannot make a valid comparison between a farmhouse or a house on a station and a suburban house.

The Hon. T. O. Perry: I would like to inform Mr Pratt that I used to live on a farm and I now live in town, but my way of life in town is no different from my way of life on the farm.

The Hon. R. Thompson: You are not qualifying what is your way of life.

The Hon. T. O. Perry: I respect the rights of an individual to privacy. In this regard I recall an incident concerning a detective who subsequently was promoted to a very high rank in the force. On

this occasion he obtained a search warrant, and he acted after he had received a complaint. Eventually the complaint was proved to be without foundation. The search caused a great deal of embarrassment to the person whose home and property had been searched, but he had practically no redress.

I draw attention to the amendment that has been foreshadowed by the Minister; in my view it will provide for a greater degree of protection to the rights of the individual. For that reason I cannot support the amendment moved by Miss Elliott.

The Hon. R. F. CLAUGHTON: One should not be amazed at the sudden display of concern by members of the Liberal Party on the rights of the individual to have his privacy safeguarded, since such concern has followed the statement made by their leader. Obviously this concern was not apparent before.

The Hon. W. R. Withers: You think you are supporting the amendment of Miss Elliott, but you are not. You are doing more damage than you think.

The Hon. R. F. CLAUGHTON: I am interested in the attitude of the Liberal members, but whether their concern will continue to be expressed in the debates on the other Bills that will come before us I do not know. If what I have said has changed the views of Mr Withers, it only goes to show that his present concern is not very deeply rooted.

The Hon. R. Thompson: His termites are objecting!

The Hon. R. F. CLAUGHTON: That is right. It may be that Mr Withers was only looking for excuses to extricate himself from the predicament he is in. It is amazing how some members opposite can see in the amendment foreshadowed by the Minister a degree of protection to the individual. That amendment will merely enable a person to go before a justice of the peace and lodge a complaint. Nothing more will follow from the making of such a complaint than if the person had complained to the Minister or the department. An inquiry might be made and that is all, but no further action will be required. If the complaint is found to be justified no penalty can be imposed. For that reason I say the amendment foreshadowed by the Minister has no value at all, and this demonstrates further the value of the amendment that has been moved by Miss Elliott.

Some of the references that have been made are rather interesting, particularly those by Mr Gayfer. One is that the provision in clause 23 is designed to enable inspectors of the Agriculture Protection Board and the Wildlife Authority to check on the presence of certain birds. It appears the amendment before us seeks to back up the new Vermin Act regulations that were so strongly objected to in the other Chamber.

It is not necessary to vest in the inspector the powers that are sought in the Bill. In fact, the dangers which the Bill seeks to safeguard do not exist at all. It has been suggested to me that the only part of the State in which it might be necessary to exercise these powers of search is the Kimberley where, if some of these birds escaped, there would be a real danger.

The Hon. G. C. MacKinnon: Are you not getting mixed up with the Vermin Act? We are dealing with the Fauna Conservation Act.

The Hon. R. F. CLAUGHTON: I am not. Mr Gayfer made reference to these birds; and both Mr Dans and the Minister have made reference to the smuggling of birds out of the country. As Mr Dans pointed out, the smuggling aspect is covered by the customs officers, so we need not be concerned about it. So far as birds which are listed, the inference to be drawn is that these inspectors will be involved in policing the regulations. We should do what is proposed in the amendment before us, and we should not give the inspectors these powers of entry into private properties and homes without their obtaining proper authority.

I would remind Mr Gayfer that in the earlier discussions on the Bill the Leader of the Opposition made the point there were many other pieces of legislation which contained similar powers; that those pieces of legislation had been introduced or supported by members of all political parties; and that we should all accept our share of the responsibility and not blame the Government.

The Hon. H. W. Gayfer: I said you had supported those pieces of legislation.

The Hon. R. F. CLAUGHTON: Yes, but in saying that the honourable member took Miss Elliott to task by expressing amazement that we are objecting to the inclusion of those powers in the Bill before us. It is agreed that similar powers of search appear in other pieces of legislation which have been supported by members on this side, but how far do we go in this regard? Is it not time to call a halt to the extension of these powers? I suggest this is a good time to call a halt.

The Hon. H. W. Gayfer: Do you say that the power that is given to the Agriculture Protection Board officers to inspect properties should be taken away from them?

The Hon. R. F. CLAUGHTON: The Premier has indicated that he intends to institute an inquiry.

The Hon. H. W. Gayfer: What do you say about that?

The Hon. R. F. CLAUGHTON: Let us not jump ahead.

The **DEPUTY CHAIRMAN** (the Hon. Clive Griffiths): I would ask the honourable member to direct his remarks to the Chair and to confine them to the deletion of subparagraph (vii).

The Hon. R. F. CLAUGHTON: The Premier has said that he intends to institute an inquiry. It is appropriate that we should object to the extension of these powers at this stage. Let the Government conduct an inquiry. If as a result of that inquiry it is found these powers should be included in this legislation then the Government could introduce another Bill subsequently.

At this stage it would be presumptuous for us to insert these powers in the legislation without an inquiry. If the Government is sincere in saying that it will institute an inquiry then it should support the amendment to delete subparagraph (vii). If as a result of the inquiry it is found necessary to insert those powers then in the next session of Parliament, which is only a matter of months away, a Bill for that purpose could be introduced.

If the matter is considered further there is a chance that it will receive the support of all members. I hope the majority of members of the Committee will support the amendment.

The Hon. J. HEITMAN: I have listened closely to the debate on this amendment and it appears to me there is a tremendous amount of fuss about nothing. Many other Acts contain the provision now under discussion. During the fruit-fly season men and women enter backyards and spray fruit trees, and they are not required to obtain permission before they enter those backyards. Surely they should not have to have a warrant in order to search for fruit fly?

I do not suppose there would be one case in a thousand where it would be necessary for an inspector to enter a property in order to search for prohibited birds. A fair amount of evidence would be necessary before a search was warranted.

The Hon. R. F. Claughton: In that case an inspector would have time to obtain a warrant.

The Hon. G. W. Berry: The bird would have flown!

The Hon. J. HEITMAN: The bird could have had its neck wrung by that time. There was reference to people lying nude in the sun, but they run a risk anyway. I do not imagine inspectors would want to look at them. Such sights can be seen without sneaking over back fences.

I think the matter has been taken too seriously. While reading this afternoon's issue of the *Daily News* I saw where Mr Thompson considered there was no need for this Chamber because it was not a House of Review, and because Government members did not vote against the Government. I think what has occurred this

afternoon proves that what Mr Thompson had to say was a lot of rubbish.

The Hon. S. J. Dellar: What a coincidence!

The Hon. J. HEITMAN: The only members in this Chamber who act in that manner are those in the Opposition. On only one occasion during the 12 years I have been here have I seen a member opposite vote against a measure introduced by his Minister.

I ask members to have another look at the amendment because I do not think there would be one case in a thousand where it would be necessary for an inspector to enter a back yard in order to destroy birds. He would need to have fairly definite proof.

Taxation inspectors are able to show an identification card and then enter premises to check the stamp sheets of wages employees. There are many other instances where this sort of machinery provision is necessary. When it is necessary for an inspector to enter a property such action has to be taken quickly. I support the clause as it stands.

Amendment put and a division taken with the following result—

Ayes—11

Hon. R. F. Claughton	Hon. I. G. Pratt
Hon. D. W. Cooley	Hon. R. H. C. Stubbs
Hon. S. J. Dellar	Hon. R. Thompson
Hon. Lyla Elliott	Hon. W. R. Withers
Hon. R. T. Leeson	Hon. D. K. Dans
Hon. G. E. Masters	(Teller)

Noes—14

Hon. C. R. Abbey	Hon. M. McAleer
Hon. N. E. Baxter	Hon. N. McNeill
Hon. G. W. Berry	Hon. I. G. Medcalf
Hon. H. W. Gayfer	Hon. T. O. Perry
Hon. J. Heitman	Hon. J. C. Tozer
Hon. T. Knight	Hon. D. J. Wordsworth
Hon. G. C. MacKinnon	Hon. V. J. Ferry
	(Teller)

Pair

Aye	No
Hon. Grace Vaughan	Hon. A. A. Lewis

Amendment thus negatived.

The Hon. G. C. MacKINNON: With your indulgence, Mr Deputy Chairman, I have already spoken to my amendment which appears on the notice paper. I move—

Page 16, line 5—Delete the word "and".

The Hon. LYLA ELLIOTT: I have already indicated that I am not happy with the amendment which has been proposed by the Minister. I feel it is superfluous and will not achieve anything. However, we on this side of the Chamber will not oppose it.

Amendment put and passed.

The Hon. G. C. MacKINNON: I move an amendment—

Page 16, line 8—Delete the passage "words "wildlife officers";" and substitute a new passage as follows—

words "wildlife officers"; and

- (iii) by adding after paragraph (b) a new paragraph as follows—

(c) Where a wildlife officer enters upon or searches the enclosed garden or curtilage of a dwelling house the owner or occupier of that dwelling house may make a complaint on oath before a justice of the peace alleging that in his opinion there had been no reasonable grounds for the exercise of that power, and thereupon the justice shall cause the matter to be inquired into and shall make his findings known to the complainant and to the Minister.

Amendment put and passed.

Clause, as amended, put and passed.

Clauses 24 to 33 put and passed.

Title put and passed.

Bill reported with amendments.

House adjourned at 5.45 p.m.

Legislative Assembly

Thursday, the 2nd October, 1975

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

QUESTIONS (56): ON NOTICE

1. RAILWAY CROSSING

Manjimup: Closure

Mr H. D. EVANS, to the Minister for Transport:

- (1) Is it a fact that the Ipsen Street railway crossing, Manjimup, is to be closed?
- (2) If "Yes" to (1)—
 - (a) what are the reasons for dispensing with this crossing, and is operating costs a major one;
 - (b) has the Manjimup Shire Council been consulted about the closure of the Ipsen Street crossing and if so what views did it express;
 - (c) have any organisations from Manjimup expressed opposition to this closure, and if so which ones;
 - (d) have there been any town planning studies as to the effects of the closure of the Ipsen Street crossing, and if so what are the results of any such studies?

- (3) Is it intended that a barbed wire fence will be constructed across Ipsen Street on both sides of the railway line, and if so what is the height and extent of any proposed fence?
- (4) If "Yes" to (3) has the construction of such a fence across the Ipsen Street crossing the approval of the Town Planning Department, the Environmental Protection Authority and the Road Traffic Authority?
- (5) In view of the concern expressed towards the town planning consequences, and aesthetics of the proposed fence by bodies which feel insufficient discussion and consideration has been given to the closure of the Ipsen Street crossing, will he have further action postponed, and discussions between the interested departments and bodies initiated?

Mr O'Neill (for Mr O'CONNOR) replied:

- (1) Yes.
- (2) (a) In 1972 the Manjimup Shire Council put forward to the Railways Department a proposal for a direct road connection southwards of Giblett Street, to connect into Chopping Street, integrated with closing Ipsen Street level crossing and upgrading Brain Street level crossing. The shire's proposals hinged on the Railways Department agreeing to eliminate railway stow roads then crossing Chopping Street and relocating them adjacent to the main line.

Accordingly, the Railways Department proceeded with this proposal and also ceded some land to the shire council to assist in the road rearrangement.

During 1975 there has been some discussion between the shire and the Railways Department concerning the extent of the shire's financial contribution to the work, but in June 1975 the shire advised it was still resolved to proceed with the Ipsen Street crossing proposal.

Later, in August 1975, the shire requested deferment of closure of the crossing, due to representation received from residents.

Because the shire's agreement to closure of Ipsen Street and the upgrading of Brain Street crossings has had a considerable influence on the design of improving the railway yard at Manjimup and